



**CITY OF SAN JOSÉ**  
**HOUSING AND COMMUNITY DEVELOPMENT**  
**COMMISSION**

**October 13, 2016 AT 5:45 PM**  
**SAN JOSÉ CITY HALL**  
**200 E. SANTA CLARA ST.**  
**LOCATION: WING ROOMS 118-120**  
**SAN JOSÉ, CA 95113**



Mike Graves, Chairperson  
 Melissa Medina, Vice Chair

Commissioners

Michael Fitzgerald	Martha O'Connell	Lee Thompson
Bob Gill	Gary Prideaux	Andrea Wheeler
Davlyn Jones	Alex Shoor	

Members of the public who wish to make comments on any item on the Agenda, or any other item related to the Commission's purview, may be given two (2) minutes. Please note that: (1) the Commission will only be able to discuss comments to items on the Agenda; and (2) the time schedule shown below is approximate and intended only to notify the Commission of the approximate amount of time staff expects each item might take, and items may be heard before or after the times shown.

<u>TIME*</u>	<u>AGENDA ITEM</u>
5:45	(a) <b>Call to Order/Orders of the Day</b>
5:50	(b) <b>Introductions</b>
5:55	(c) <b>Approval of Minutes for the September 8, 2016 Regular Meeting</b> ACTION: Recommend approval of the September 8, 2016 action minutes
6:00	(d) <b>Approval of Minutes for the September 24, 2016 Annual Retreat</b> ACTION: Recommend approval of the September 24, 2016 action minutes
6:05	(e) <b>Chair's Report (M. Graves, Chair)</b>
6:10	(f) <b>Update on City Council Policy 0-4 for Boards and Commissions</b> (T. Taber, Office of the City Clerk) ACTION: Discussion only
6:40	(g) <b>Potential Modifications to the Affordable Housing Impact Fee (AHIF) Program (P. Heisinger, Housing Department)</b> ACTION:

1. Accept the status report on the Affordable Housing Impact Fee (AHIF) program; and

2. Provide recommendations to staff regarding the following recommended changes to the AHIF:
  - a. Add an exemption to change the threshold size of rental projects to which the AHIF applies from three (3) units to 20 units;
  - b. Reduce the existing housing impact fee by \$4.00 per square foot for mixed residential/commercial market-rate rental projects receiving all Planning Permits by the earlier of January 31, 2020 or adoption of a new Urban Village plan, in which the commercial square footage equals of each building exceeds eight percent (8%) of the project's square footage for the projects in the Downtown and Diridon Station areas and the following urban villages: Valley Fair/Santana Row, West San Carlos, The Alameda, East Santa Clara Street, Roosevelt Park; and
  - c. Amend the provisions exempting For-Sale projects from the AHIF to make the standard consistent with the staff report and the adopted AHIF regulations and the adopted Inclusionary Housing guidelines

- 7:10            (h)    **Assembly Use Zoning Ordinance: Shelter and Safe Parking (J. Morales-Ferrand, Housing Department)**  
ACTION: Discussion only
- 7:30            (i)    **FY 2016-17 HCDC Workplan (J. Morales-Ferrand, Housing Department)**  
ACTION: Discussion and potential recommendation to the Rules and Open Government Committee to accept approval of FY 2016-17 HCDC Workplan
- 7:45            (j)    **Discussion of Potential Future Agenda items**  
Discussion and possible recommendation on items to be placed on list of future HCDC agenda topics
- 7:50            (k)    **Director's Report (J. Morales-Ferrand, Housing Department)**  
- Measure A  
- Recent State Legislative actions  
- Recent City Council actions on housing issues
- 8:00            (l)    **Open Forum**
- 8:05            (m)    **Adjournment**

*\*HCDC meetings start at 5:45 pm. All other times listed for the specific agenda topics are estimates. Actual start times may deviate from the estimate provided.*

**All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the City of San Jose Housing Department, 200 E. Santa Clara St., 12<sup>th</sup> Floor, San Jose, CA 95113 at the same time that the public records are distributed or made available to the legislative body.**

**Para residentes que hablan español:** Si desea mas información, favor de llamar a Theresa Ramos al

To request an accommodation for this meeting or an alternative format for any related printed materials, please contact Robert Lopez at 408-975-4402 or [Robert.Lopez@sanjoseca.gov](mailto:Robert.Lopez@sanjoseca.gov) or 408-294-9337 (TTY) as soon as possible, but at least three business days before the meeting.

408-975-4475.

**Riêng đối với quý vị nói tiếng Việt :** Muốn biết thêm chi-tiết, xin vui lòng tiếp xúc với Therese Tran, Đ.T. 408-793-5349.

對於說華語的居民: 請電 408-975-4450 向 Ann Tu 詢問詳細事宜。說粵語的居民則請撥打 408-975-4425 與 Yen Tiet 聯絡。

**Para sa mga residente na ang wika ay tagalog:** Kung kinakailangan pa ninyo ng inpormasyon, tawagan si Arlene Silverio sa 408-793-5542. Salamat Po.

\*\*\*You can access the agenda and all attachments electronically at the Housing & Community Development Commission website at : <http://www.sanjoseca.gov/index.aspx?NID=1262>

**HOUSING & COMMUNITY DEVELOPMENT COMMISSION****REGULAR MEETING ACTION MINUTES****SEPTEMBER 8, 2016**

**MEMBERS PRESENT:**

Mike Graves	Chair
Melissa Medina	Vice-Chair
Davlyn Jones	Commissioner
Martha O'Connell	Commissioner
Bob Gill	Commissioner
Gary Prideaux	Commissioner
Andrea Wheeler	Commissioner

**MEMBERS ABSENT:**

Lee Thompson	Commissioner
Michael Fitzgerald	Commissioner
Alex Shoor	Commissioner

**STAFF:**

Jacky Morales-Ferrand	Housing Department
Dave Bopf	Housing Department
James Stagi	Housing Department
Robert Lopez	Housing Department
Austin McComb	Vice Mayor Herrera's Office

(a) **Call to Order/Orders of the Day**—Chair Graves opened the meeting at 5:49pm.

(b) **Introductions**—Commissioners, staff, and audience introduced themselves.

(c) **Approval of the Action Minutes for the August 11, 2016 Regular Meeting**

Commissioner Jones made the motion to approve the minutes for the August 11, 2016 regular meeting with a second by Commissioner Gill. The motion passed unanimously (7:0).

(d) **Chair's Report (Chair Graves)**

Chair Graves reminded the audience to be civil and respectful during the presentation and comments of the Winchester Ranch Mobilehome Park.

(e) **Winchester Ranch Mobilehome Park – Owner's Proposal for redevelopment of the site and relocation assistance for the current residents (Lee Arioto)**

Presentation provided by Mr. Arioto and his representative.

(f) **Revised Amendment to the Rental Dispute Mediation and Arbitration Program Regulations (J. Morales-Ferrand, Housing Department)**

Chair Graves made the motion to recommend to the City Council to approve the revised amendment to the regulations implementing the Interim Apartment Rent Ordinance (Revised Interim Regulations) with the recommendation to outreach to apartment owners and edit the language

## **DRAFT**

of Section 9.04.04 Speakers' Presentations to remove "concise and to the point" because it does not ensure the ability of the apartment residents to present a case in which they are not experienced in doing or have a language or disability barrier. The motion was seconded by Commissioner Wheeler. The motion passed unanimously (7:0).

### **(g) Public Hearing on the FY 2015-16 Consolidated Annual Performance and Evaluation Report (CAPER) of Federally Funded Programs (J.Stagi, Housing Department)**

Chair Graves opened the public hearing.

Diana Castillo, Law Foundation of Silicon Valley – Ms. Castillo thanked the City of San Jose and Housing Department staff for prioritizing fair housing as it is a continuous community issue. Ms. Castillo also stated that the funding for home repairs for low income residents has also been important this past year.

\*Member of the public, Blair Bickman, did approach to comment on the HMIS funding, but held comment for Open Forum.

Chair Graves close the public hearing.

Commissioner Jones made the motion to recommend to the City Council to approve the FY 2015-2016 Consolidated Annual Performance and Evaluation Report (CAPER) with a second by Commissioner Gill. The motion passed unanimously (7:0).

### **(h) Draft FY 2016-17 HCDC Workplan (D. Bopf, Housing Department).**

The Commission provided input and suggestions on the draft

### **(i) Director's Report (J. Morales-Ferrand, Housing Department)**

Ms. Morales-Ferrand provided an update on recent City Council decisions involving the Housing Department including Senter Road and Evans Lane.

### **(h) Open Forum**

D. Castillo, Law Foundation – Commented on the Mobilehome Opt-in outreach saying that she was worried that they can't observe the process.

Commissioner O'Connell – Read a statement from the affordable housing network, which was included into the Commission record.

Blair Bickman – Thanked for Commissioner O'Connell for her comments and the Housing Department for giving a sense of transparency. Commented that the Commission should be able to make written formal statement to Planning Commission as they are working on the Evans Lane project. Also, concerning the Care Coordination program, he is worried that it's listed as a grant proposal and under the purview of national security.

Bob Gill: Reminded the Commission that people on the list are still waiting for housing

### **(i) Adjournment**

Chair Graves adjourned the meeting at 8:47pm.

**HOUSING & COMMUNITY DEVELOPMENT COMMISSION****ANNUAL RETREAT ACTION MINUTES****SEPTEMBER 24, 2016**

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**MEMBERS PRESENT:**

Mike Graves	Chair
Melissa Medina	Vice Chair
Michael Fitzgerald	Commissioner
Martha O'Connell	Commissioner
Davlyn Jones	Commissioner
Gary Prideaux	Commissioner
Alex Shoor	Commissioner
Lee Thompson	Commissioner
Andrea Wheeler	Commissioner
Bob Gill	Commissioner

**MEMBERS ABSENT:** None

**SPECIAL GUEST:** Vice Mayor Rose Herrera

**STAFF:**

Dave Bopf	Housing Department
Robert Lopez	Housing Department
Austin McComb	Vice Mayor's Office

(a) **Call to Order/Orders of the Day**—Chair Graves opened the meeting at 9:16am. Commissioner O'Connell made the motion to change the orders of the day to have the Vice Mayor speak first, with a second by Chair Graves. The motion passed unanimously (10:0).

(b) **Introductions**—Commissioners, staff, and audience introduced themselves.

(c) **Announcements** – No Announcements

(d) **Priorities and Issues Facing San Jose in 2016-17 (Vice Mayor Herrera)**

Vice Mayor Herrera presented her priorities and issues facing San Jose in 2016-17 along with the important items City Council has worked on in the past year. The Commission provided Vice Mayor Herrera with a commendation for her representation of the Commission.

(e) **Overview of Housing & Community Development Commission Duties and HCDC Membership Matrix. (D. Bopf, Housing Department)**

Mr. Bopf summarized important points from the San Jose Municipal Code that outlined the duties of the HCDC as well as went over the Membership Matrix showing the Commission experience and needs.

(f) **Housing & Community Development Commission Draft FY 2015-16 Workplan and Accomplishments (D. Bopf, Housing Department)**

## **DRAFT**

Commissioner Shoor made the motion to approve the Housing & Community Development Commission Draft FY 2015-16 Workplan and Accomplishments and to forward to the Rules & Open Government Committee with a second by Vice Chair Medina. The motion passed unanimously (10:0).

### **(g) Overview of Housing Department Workplan for 2016-17 (D. Bopf, Housing Department)**

Mr. Bopf presented the draft Housing Department workplan for 2016-17 and explained how it outlines the work of the HCDC.

### **(h) Review and Commissioner Input on FY 2016-17 Preliminary Draft HCDC Workplan (D. Bopf Housing Department)**

Commissioner O'Connell made the motion to direct Housing staff to revise 2016-17 HCDC workplan per commissions' comments for final approval at October 13, 2016 regular meeting with a second by Commissioner Thompson. The motion was approved unanimously (10:0).

### **(i) Open Forum**

None.

### **(j) Adjournment**

Chair Graves adjourned the meeting at 1:24pm.

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**COUNCIL POLICY**

<b>TITLE</b> Consolidated Policy Governing Boards and Commissions	<b>PAGE</b> 1 of 29	<b>POLICY NUMBER</b> 0-4
<b>EFFECTIVE DATE: August 9, 2016</b>		<b>REVISED DATE: August 9, 2016</b>
<b>APPROVED BY COUNCIL ACTION:</b> August 28, 1984, Item 8(b)(2); August 28, 1990, Item 7d(4); November 20, 1990, Item No. 7d(1); February 19, 1991, Item No. 7(b)(6); August 1, 1991, Item No. Item 7(d)(4); August 9, 2016, Item 3.3(a)		

**BACKGROUND**

This policy consolidates Council Policy 0-4 (Consolidated Board and Commission Policies) and Council Policy 0-36 (City Council / Commission Code of Conduct), former Council Policy 0-20 (Appointment of City Employees and Council Assistants to Boards and Commissions), and former Council Policy 0-22 (Political Involvement of Boards, Commissions and Committees and their Members), and incorporates portions of Council Policies 0-15 (Code of Ethics for Officials and Employees of the City of San Jose). It is intended as a comprehensive selection of policies as they relate to Boards and Commissions and updated as part of the Board and Commission Consolidation approved by City Council on May 7, 2013.

City of San Jose Boards and Commissions are established in order to provide independent recommendations to Council or, in the context of quasi-judicial boards such as the Planning Commission, Civil Service Commission, Board of Fair Campaign and Political Practices, and Appeals Hearing Board, to make independent decisions and take administrative actions. The Boards and Commissions play an important role by being visible in the community and bringing a broad representation of ideas into the process.

The City Charter provides that, in addition to those Boards and Commissions established by the City Charter, the City Council may create such other Boards and Commissions as in its judgment are required, and grant them such functions, powers and duties as are consistent with the City Charter. This Policy intends to fully define the policies and customs as related to those Boards and Commissions.

This Policy only applies to Boards and Commissions whose members are appointed by the City Council pursuant to the City Charter and San José Municipal Code. Therefore, it does not apply to the San José Arena Authority Board of Directors, Deferred Compensation Advisory Committee, Mayor's Gang Prevention Task Force, Federated Retirement Board, Police and Fire Retirement Board, and work2future Board.

**SECTIONS**

- I. RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION
- II. REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS
- III. BOARD AND COMMISSION GOVERNANCE AND OPERATIONS
- IV. CODE OF CONDUCT
- V. AUTHORITY OF BOARDS AND COMMISSIONS
- VI. BOARD AND COMMISSION RECOGNITION
- VII. IMPLEMENTATION



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### DEFINITIONS

For purposes of this Policy, the following definitions are in effect throughout:

**Appointee** – An individual who has been appointed by the City Council to a Board or Commission, but has not been sworn in as a Commissioner by the City Clerk.

**Charter Commission** – The following commissions established by and whose membership, powers and duties are defined in the City Charter, Article X, Boards and Commissions: Planning Commission, Civil Service Commission, and Salary Setting Commission.

**Council Liaison** – See Section IV.B of this Policy.

**Council Nominated Commission** – Commissions whose members without special eligibility requirements are nominated by each Council Member, including the Mayor, and appointed by City Council pursuant to San José Municipal Code Section 2.08.180. A listing of current Council Nominated Commissions is included in Appendix A of this Policy.

**Council Appointment Advisory Commission Nominated Commission** – Commissions whose members with special eligibility requirements are nominated by the Council Appointment Advisory Commission. See Appendix A of this Policy.

### SECTION I: RECRUITMENT, SELECTION, APPOINTMENT, AND RESIGNATION

#### Purpose

This Policy establishes a systematic procedure for accepting and reviewing applications from persons interested in serving on Boards and Commissions and provides members of the City Council a process to make nominations to the various Boards and Commissions for appointment by the City Council.

#### A. PROCESS AND PROCEDURE

1. **Roster**: A current roster of Board and Commission members will be maintained by the City Clerk. The roster shall show the first appointment date of each Commissioner, the current term expiration date, and whether the Commissioner is eligible for reappointment.
2. **Applications**: The City Clerk will provide an application form to all persons wishing to serve on a Commission. Those persons wishing to serve on a Commission, including current Commissioners who wish to be reappointed, must file an application. Applicants who were not appointed to a Board or Commission will have their applications maintained on file in the City Clerk's Office for a period of one year from the date of application. During that year, the applicant may be eligible for appointment to an unanticipated vacancy on the Board or Commission for which they applied. If so eligible, the City Clerk will contact the applicant to confirm their interest and obtain any

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changes to their application. The City Clerk may continue to accept applications for Boards and Commissions while there are no vacant positions in order to have an applicant pool to fill unanticipated vacancies.

3. City Residency Requirement: Except as provided below, all applicants to Boards and Commissions must be San José residents. Except for Charter Commissions and the Neighborhoods Commission, in specific cases where a qualified San José resident has not applied to fill the vacancy, the Council may appoint a non-resident.
  - a. Residents of land annexed by the City of San José are considered San José residents. Residents of unincorporated County of Santa Clara land are not considered San José residents.
  - b. Except for Charter Commissions and the Neighborhoods Commission, if a Commissioner moves out of the City of San José with less than six months left on their term, they shall be allowed to finish their term; otherwise, Commissioners must retain residency in the City of San José during their term of office.
  - c. If a Commissioner moves out of the City of the San José with six or more months left on their term, the commissioner shall be deemed automatically resigned.
4. Vacancies: The City Clerk shall notify the City Council via memorandum of vacancies and recruitments occurring within the next sixty days. Copies of such notices shall be sent to the secretaries of Boards or Commissions listed therein. When a vacancy exists, the Clerk shall place a notice of said vacancy on the City Calendar and Website for viewing by the public.
5. Terms of Office: The following term limits apply to Boards and Commissions other than the Charter Commissions and Youth Commission. Under San José Municipal Code Section 2.08.150, members of Council Nominated Commissions and the Neighborhoods Commission, except for the Youth Commission, shall serve for a term of four years and are eligible for reappointment at the expiration of their first term for one additional four-year term. Members of the Youth Commission shall serve for a term of two years and are eligible for reappointment at the expiration of their first term for one additional two-year term. Should a Commissioner be off a commission for at least one full term (four years, or two years for the Youth Commission), the Commissioner shall be eligible for a new appointment to that Commission.
6. Limited to Single Legislative Body: No commissioner shall serve on more than one commission at a time. Should a commissioner seek appointment to another commission, upon his/her new appointment, the commissioner shall be deemed automatically resigned from his or her original commission. Other than Standing Committees of their respective commission, no commissioner shall serve on "Other Advisory Entities" as defined by the Consolidated Open Government and Ethics Resolution.
7. Review of Applications: Applications to all Commissions except Youth Commission will be reviewed by the Office of the City Attorney for potential conflict of interest and Department of Planning, Building, and Code Enforcement for any pending code violations.

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8. Appointment Process for Charter Commissions, Appeals Hearing Board and Board of Fair Campaign and Political Practices. The City Council holds public interviews of the applicants according to the following procedure:
- a. On or before the occurrence of a vacancy, the Commission Secretaries will prepare and send to the City Clerk's Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
  - b. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
  - c. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications.
  - d. Upon close of the vacancy notice period, the City Clerk will provide full application packages to each member of the City Council. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement Code memo, Commission Secretary's background memos, and any other information as necessary.
  - e. After receipt of the full application package, each Council Member, including the Mayor, shall notify the Clerk in writing of the applicants he/she wishes to interview. If four Council Members indicate they would like to interview the same applicant, the Clerk shall contact the applicant to notify him/her of the time, place and date of the interview, which shall occur during an open meeting of the City Council.
  - f. At the Council meeting at which the interviews are held, the Clerk shall supply the Council Members with a ballot, which may be electronic, containing the names of all the applicants to be interviewed. Upon completion of the interviews, each Council Member shall mark his/her selection of applicant on the ballot. The Clerk shall publicly read the votes of the Council Members, and the applicant(s) receiving the most Council votes (six or more) shall be appointed. If there are two or more vacancies, and more than two applicants receive six or more votes, then the applicants receiving the highest number of votes shall be appointed. In the case of a tie, a second balloting shall take place.
  - g. After the Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

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9. Appointment Process for Council Nominated Commissions (See Appendix A for a complete list)
- a. Regularly Scheduled Vacancies for Seats Nominated by Council Members: The following appointment process applies to all regularly scheduled vacancies for seats for Council Nominated Commissions specifically referencing 2.08.180.
- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Council Member responsible for the nomination of that seat.
  - ii. The Commission Secretaries will prepare and send to the City Clerk's Office for distribution a background memo on the Commission which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
  - iii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
  - iv. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
    1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
    2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.
  - v. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
  - vi. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making appointments. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo,

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Commission Secretary's background memos, and any other information as necessary.

- vii. After receipt of the full application package, each Council Member, including the Mayor, shall submit their nominations for approval by the City Council. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- viii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

- b. Vacancies for Seats Nominated By Council Appointment Advisory Commission:  
The following appointment process applies to seats on Council Nominated Commissions with special eligibility requirements that are nominated by the Council Appointment Advisory Commission:

- i. On or before the occurrence of a vacancy, the City Clerk shall notify the Commission Secretary. The Commission Secretary will prepare and send to the City Clerk's Office for distribution a background memo on the requirements for those seats needing to be filled which should include any special eligibility requirements, needs, or areas of expertise needed for more equitable representation on the Commission. The memo should include a statement setting forth attendance, residency information, and compliance with City requirements (e.g., commission training, state-mandated training, Form 700 filing) on any incumbents eligible for reappointment.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
  - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
  - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to, completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant

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meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iv. The City Clerk shall then forward a copy of the applications, Department staff liaison memo, and Commission Secretary's background memos, if any, to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
  - v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary.
  - vi. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
  - vii. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- c. Unanticipated Vacancies for Seats Nominated by Council Members. The following appointment process applies to all unanticipated vacancies for seats for Council Nominated Commissions specifically referencing Section 2.08.180 of the Municipal Code.
- i. Upon receipt of a Board or Commission member resignation, the City Clerk shall notify the Council Member for the represented district of the unanticipated vacancy, and post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
  - ii. Upon close of the vacancy notice period, the City Clerk's Office shall forward a copy of the applications to the Department staff liaison to the Commission.
    - 1. Within 7 days of receipt, the Department staff liaison may submit a memo to the City Clerk with its evaluation of the applicants based on the powers and duties of the Commission, any special eligibility requirements, and experience, background and expertise of the applicants.
    - 2. Within 7 days of receipt, the Department staff liaison to the Housing and Community Development Commission shall complete a preliminary review of the applications, including but not limited to,

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completion of the Low- or Moderate-Income Representative Certification Statement and determining whether the applicant meets the required special eligibility requirements in Section 2.08.2820 of the Municipal Code. The Department staff liaison shall submit the results of its review in a memo to the City Clerk's Office.

- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to each member of the City Council making nominations to the vacant seat(s). The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Commission Secretary's background memos, Department staff liaison memo, and any other information as necessary. Each Council Member, including the Mayor, may interview applicants prior to submitting their nominations.
- v. After receipt of the full application package, if the Council Member chooses to nominate one of the applicants, the nomination will be submitted to the City Council for approval.
- vi. If the Council Member chooses not to nominate any of the applicants, they may conduct outreach for additional applicants or request the City Clerk to conduct additional recruitment.
- vii. In the event that a Council Member or the Mayor does not provide a nominee within the specified deadline, chooses to delegate their nomination to the Council Advisory Appointment Commission, or request additional recruitment, the Council Advisory Appointment Commission shall be authorized to submit a nominee to the City Council.
- viii. If no candidate is nominated, the vacancy will be filled during the next normal Board and Commission recruitment period.
- ix. After Council makes an appointment to a Board or Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.
- x. Less Than Six Month Term: If a Commissioner is nominated to fill an unexpired term with less than six months remaining, the City Council may choose to additionally appoint him/her to the following four year term.

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10. Appointment Process for Neighborhoods Commission

a. Regularly Scheduled Vacancies for Seats Nominated by Neighborhood Groups:

The following appointment process applies to all regularly scheduled vacancies for seats for Neighborhoods Commission.

- i. The Department staff liaison to the Commission shall obtain approval from the City Council of the rules developed by the Commission for the caucus process, in accordance with Section 2.08.3440.A of the Municipal Code.
- ii. The City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- iii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk's Office.
- iv. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- v. After receipt of the conflicts of interest and code review memos, the City Clerk will provide full application packages to the Department staff liaison to the Commission, to provide to the neighborhood groups during their caucus process. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- vi. After receipt of the full application package, and in accordance with the caucus process in Section 2.08.3440.A-C of the Municipal Code, the Department staff liaison shall submit the nominations of the neighborhood groups for approval by the City Council.
- vii. After Council makes an appointment to the Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

- b. Unanticipated Vacancies Nominated By Council Appointment Advisory Commission: The following appointment process applies to unanticipated vacancies for seats on the Neighborhoods Commission:



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- i. Upon receipt of a resignation, the City Clerk shall post a vacancy notice on the City Clerk's website, San José Public Libraries, and City community centers.
- ii. Upon close of the vacancy notice period, the City Clerk shall forward a copy of the applications to the Department staff liaison to the Commission for a preliminary review of applicants, including, but not limited to, District residency verification and identification, and application completeness. Within 7 days of receipt, the Department staff liaison shall submit the results of its review as a Department staff liaison memo to the City Clerk's Office.
- iii. The City Clerk shall then forward a copy of the applications and Department staff liaison memo to the City Attorney for a conflicts review and Department of Planning, Building, and Code Enforcement for review of code actions. The City Attorney and Department of Planning, Building, and Code Enforcement will prepare and provide the City Clerk with respective memos regarding the applicants within 14 days after receipt of the applications and memo.
- iv. After receipt of the conflicts of interest and code review memos, and in accordance with the appointment process in Section 2.08.3440.D of the Municipal Code, the City Clerk will provide full application packages to the Council Advisory Appointment Commission for review. The full application packages will contain the following documents: Commission applications, City Attorney memo, Department of Planning, Building, and Code Enforcement memo, Department staff liaison memo, and any other information as necessary.
- v. After receipt of the full application package, the Council Advisory Appointment Commission will interview applicants, select their nominee and submit their nomination to the City Council for final approval.
- vi. After Council makes an appointment to the Commission, the City Clerk's Office shall notify the appointee and the Commission Secretary of the appointment and make arrangements for an Oath of Office, Code of Ethics Agreement, and any additional requirements to be signed and completed. The Commission Secretary shall notify the appointee that he/she shall not act in their capacity as a Board Member or Commissioner until an Oath of Office and Code of Ethics Agreement have been signed.

**11. Resignations:**

- a. Voluntary Resignation: Voluntary resignations from Boards and Commissions shall be submitted in writing to the City Clerk and Commission Secretary. Resignations are effective on the date submitted to the City Clerk or Commission Secretary, unless a different date is noted on the resignation. Resignations cannot be rescinded or revoked.
- b. Automatic Resignation: Commission Secretaries will notify the City Clerk of vacancies occurring due to absences pursuant to the provision of the San José Municipal Code Section 2.08.060 that automatically deem a seat vacant.

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### B. CITY EMPLOYEES

1. Because City Boards and Commissions are intended to provide the City Council with a perspective different and additional to that provided by staff and other persons retained to provide that advice, unless a particular Board or Commission is required by the San José Municipal Code or Resolution of the Council to have staff representatives appointed thereto, no City employee or City intern, paid or unpaid, shall be appointed to any City Board or Commission.
2. Notwithstanding the above, Youth Commissioners may also serve the City as a paid or unpaid intern.
3. Former or retired City employees shall not be appointed to the Civil Service Commission.

## SECTION II: REQUIREMENTS FOR BOARD MEMBERS AND COMMISSIONERS UPON APPOINTMENT

### Purpose

Based upon various local, state, and federal laws and requirements, Board Members and Commissioners are required to complete and have on file with the Office of the City Clerk certain paper work and complete certain trainings in order to serve on a Board or Commission. The City Clerk's Office will notify the Commission Secretary of commissioners who fail to complete any requirements.

### Policy

1. Oath of Office: Upon appointment and reappointment, Commissioners and Board Members are required to file a current oath of office with the Office of the City Clerk (Article 20, Section 3 of the California Constitution). ***A new oath of office must be administered for each term of office.***
2. Code of Ethics: Commissioners and Board Members shall read and sign a Code of Ethics Statement. (San José City Council Policy 0-15).
3. Form 700 / Statement of Economic Interest: The following Board Members and Commissioners are required to file a Statement of Economic Interest, Form 700.
  - a. Any Commission designated in the City's conflict of interest code;
  - b. Pursuant to Government Code 87200, Planning Commissioners; and
  - c. Any Commissions added to Government Code 87200 following approval of this Policy.
4. AB 1234 Ethics Training: Commissioners who receive compensation, salary, stipend or reimbursement of expenses are required to complete state mandated ethics training. Said training must be for a minimum of two hours, and completion certificates must be filed with the Office of the City Clerk within 90 days of appointment. Such training must be completed every two years.
5. City Training: Within the first year of appointment, Commissioners will be required to complete a mandatory training session covering, but not limited to, the City Charter, the San José Municipal Code Section 2.08, City Council Policies related to Boards and Commissions, City Policies and Procedures, Brown Act and Consolidated Open Government and Ethics Resolution, Statement of Economic Interest Disclosure

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requirements, and Parliamentary Procedures. The training will be coordinated by the City Clerk's Office with the City Attorney's Office and Boards and Commission staff.

**SECTION III: BOARD AND COMMISSION GOVERNANCE AND OPERATIONS**

**Purpose and Application**

Standardized Rules and Regulations have been established to better serve the public in that any resident, business, or other interested party appearing before a City Commission may know what to expect regardless of the board or commission. This process standardization was ordered as part of the Boards and Commissions Consolidation approved by City Council on May 7, 2013.

**Policy**

**A. BYLAWS**

All City Commissions, except the Airport Commission, Appeals Hearing Board, Civil Service Commission, Salary Setting Commission, Board of Fair Campaign and Political Practices, and Planning Commission, will operate under a standardized set of Bylaws developed by the City Clerk. Any deviation from the standardized Bylaws must be approved by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. See Appendix B for Commission Bylaws Template.

**B. ANNUAL WORKPLAN, BUDGET AND REPORT**

Each fiscal year, all City Commissions except for Charter Commissions and the Appeals Hearing Board, shall submit their annual workplan of activities to be undertaken, budget of personal and non-personal costs, and annual report of its accomplishments to the Rules and Open Government Committee or other designated Council Committee for approval, as delegated by the City Council pursuant to this Policy. Staff shall provide a cover memo indicating whether the workplan corresponds with the Department's workplan. The Commission's annual workplan, budget and annual report shall follow the standard template format provided by the City Clerk. Commissions shall not include items in the workplan that would extend their scope beyond the functions, powers, and duties granted to or bestowed upon them by San José Municipal Code Chapter 2.08.

**C. SUBCOMMITTEES (STANDING, AD HOC AND TEMPORARY COMMITTEES)**

1. Standing Committees: Unless approved by the Rules and Open Government Committee or other designated Council Committee, standing committees, which are subcommittees with a continuing subject matter jurisdiction or a meeting schedule fixed by formal action of the Commission are not allowed under the Commission Bylaws as they are Brown Act bodies that require additional staff support. The Board or Commission requesting the creation of a standing committee shall submit a formal request to the Rules and Open Government Committee that includes justification for the standing committee as well as a time and budget analysis by the Department staff in order to assist the Rules and Open Government Committee with their decision. The City Clerk shall provide a format for the standing committee request. Standing committees shall not meet more often than its Board or Commission. Standing committees must prepare and maintain Action Minutes.

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2. Ad Hoc or Temporary Committees: Limited term ad hoc or "temporary" committees, which are comprised of less than a quorum of members of the Commission, are allowed for specific short term tasks or projects with a narrow scope and shall not last longer than six months. Ad hoc committees are not subject to the notice and posting requirements of the Brown Act. The purpose for forming an ad hoc committee must be defined and the scope of the ad hoc committee must be within the functions, powers and duties of the commission as outlined in the San José Municipal Code and as approved by the Commission Secretary. Under no circumstances shall ad hoc committees be formed to bypass the rules and laws of this Council Policy, the Brown Act, or the City Council's Consolidated Open Government and Ethics Resolution.
3. Subcommittees shall only be formed by and composed solely of members of its parent Board or Commission. Members of the public or former commissioners may not sit on subcommittees as voting or nonvoting members or officers of the subcommittee.
4. Commission members shall not be required to serve on subcommittees.

### D. COMMISSION OPERATIONS

1. The California Ralph M. Brown Act (Gov't Code § 54950 et seq.) applies to Boards and Commissions except where stricter standards are adopted by the City of San José pursuant to its Consolidated Open Government and Ethics Resolution. At no point will a policy be enacted that reduces the standards of the Brown Act.
2. The Commission shall not require commission members to perform additional duties outside what is required under San José Municipal Code section 2.08. The Commission may request its members to perform outside duties, but cannot penalize a Commission member who cannot perform these additional duties.
3. Members of the public or former commissioners may not sit on the Commission as voting or nonvoting members or officers of the Commission. Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

### E. MEETING SCHEDULE

1. Except for Charter Commissions, the frequency and schedule of meetings shall be determined by the Board or Commission's workplan, as approved by the Rules and Open Government Committee, and align with the corresponding City Department, City Service Area, and Council Committee to allow flexibility in scheduling meetings.
2. Commission Meetings may not be cancelled or rescheduled due to personal conflicts in the Commissioners' personal schedules.
3. Meetings will be conducted according to Robert's Rules of Order.

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**F. AGENDAS**

1. A standardized agenda format will be provided to Commission Secretaries by the City Clerk and should be used for all agendas, for regular meetings and/or subcommittee meetings. Any proposed change to this format by a Commission must be approved by the Rules and Open Government Committee.
2. Agendas must include the following:
  - a. Commission Name
  - b. The Meeting Date and Time
  - c. Meeting Location
  - d. Description of each item of business to be transacted or discussed
  - e. Public Comments
  - f. Public Record
3. Agenda Distribution Policy:
  - a. Email: Agendas will be distributed via email to commissioners at the City-provided email address.
  - b. Hard Copy: If a Commissioner requires hard copies of the agenda and related materials, the Commissioner must put the request in writing to the Commission Secretary. Requests for hard copies of materials will be effective until the end of the calendar year in which the request was submitted. Requests must be renewed annually. The Commission Secretary will place hard copies in outgoing first-class mail on the same day the agenda is posted, unless the agenda is posted after 3:00 p.m., in which case the agenda will be mailed the following business day. There is no guarantee that the hard copy will arrive at the Commissioner's address prior to the meeting. Alternatively, the Commissioner may pick up a hard copy in person at the office of the Commission Secretary.
4. Agendas and related materials for regular meetings shall be posted seven (7) days in advance of the meeting per the City's Consolidated Open Government and Ethics Resolution. Agendas shall also be posted at City Hall and on the City's website. An amended agenda making administrative, non-substantive changes may be posted no later than three days before the meeting.
5. Agendas and related materials will be posted online and will contain a link to all of the documents referenced or distributed to members of the body. Quasi-judicial Commissions are not obligated to post online any documents presented at the time of an evidentiary hearing.

**G. MEETINGS**

1. Commission Meetings must be audio recorded and the recording must be maintained for two years. Planning Commission meetings must also be video recorded and the recording must be maintained for two years. The Commission Secretary is responsible for maintaining the recording(s) for the two year retention period.

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2. Members of Boards and Commissions must follow the attendance rules set forth in Section 2.08.060 of the San José Municipal Code. Attendance at a regular meeting for purposes of Section 2.08.060 of the Municipal Code means attending at least 50% of the duration of the entire meeting. Attending less than 50% of the duration of the entire meeting is considered an absence for purposes of Section 2.08.060 of the Municipal Code. In the case of an excused absence, Commissioners should notify the Commission Secretary of their excused absence as soon as possible.
3. All members of Boards and Commissions will adhere to the Declaration of Conflict of Interest Policy set forth in the Council's Consolidated Open Government and Ethics Resolution.
4. Public meetings of a Board or Commission held in any location will follow the Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms set forth in Council Policy 0-37.
5. Commission Secretaries will be expected to:
  - a. Be a member of City staff
  - b. Attend all meetings, including subcommittee meetings
  - c. Prepare the meeting agendas in accordance with the approved Commission workplan, if any
  - d. Ensure meetings are effectively organized and recorded
  - e. Maintain effective records and administration, including the collection and retention of records submitted at meetings, and drafting meeting minutes
  - f. Manage communication and correspondence

**H. MINUTES**

Minutes are the official written record of what transpires during a meeting and serve as the permanent record of actions taken and staff direction.

1. Minutes will be taken in "Action Minute" format. Action Minutes include only a brief summary of the public comment and action taken by the Commission.
2. Minutes should include the following:
  - a. What type of meeting: Regular, Special, Adjourned, et al.
  - b. The name of the Commission
  - c. Date and Location of the meeting.
  - d. The word "Minutes"
  - e. Time the meeting convened
  - f. Names of commissioner and staff persons present
  - g. Public Comments
  - h. Approval of Minutes
  - i. Items on the agenda and actions taken for each item including, but not limited to, motions, direction to staff, brief summary of discussion, as well how each member voted, who made the motion and the second.
  - j. Time the meeting adjourned
  - k. Name of individual preparing the minutes.

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3. Commission Secretaries will be expected to follow the standardized "Action Minutes" format provided by the City Clerk.
4. Draft Action Minutes shall be posted within 10 days after the meeting.

**SECTION IV: CODE OF CONDUCT**

**A. MEMBERS OF BOARDS AND COMMISSIONS**

**1. All Boards and Commissions**

All Commissioners should conduct meetings in a dignified and courteous manner. No bias or prejudice against any individual or group of people should be manifested by any Commissioner or condoned by any Commission.

The following Code of Conduct applies to all Boards and Commissions.

- a. All Commissioners shall be professional, respectful and courteous to staff and the public.
- b. When speaking or writing publicly on matters within the purview of his or her Commission, unless a Commissioner has been authorized to speak on behalf of the Commission or the Commissioner is speaking on behalf of a position that the Commission has taken by formal action, the Commissioner should make very clear that he or she is speaking on his or her own behalf and not on behalf of the Commission.
- c. No Commissioner shall use his or her Commission title or speak or write as a Commissioner except when speaking on behalf of the Commission. Except when a Commissioner is speaking on behalf of the Commission, no Commissioner shall identify him or herself as a Commissioner without making clear that he or she is not speaking on behalf of the Commission.
- d. City business cards shall be provided to those Commissioners where requested by the Commission, as approved by the Commission Secretary based on Commission needs for community outreach. Information in the business cards must contain at a minimum: the name of the Commissioner, the title of the Commissioner, and the name of the Commission. Department staff will determine the additional information to be pre-printed on the business card. Such cards shall only be used when the Commissioner is on official business.
- e. City email addresses shall be provided to all Commissioners. Such email addresses shall only be used for official City business. Commissions shall not use private email addresses for City business.
- f. Use of City stationery must be limited to official Commission business. All correspondence concerning the Commission's business should be processed by the Commission Secretary.
- g. Commission recommendations to the City Council must be recommendations of the Commission as a whole, and not subject to undue influence by Council Liaison, Council Member, City staff, or any outside agency.
- h. Individual Commissioners are free to discuss any issues and concerns with the Council Liaisons, Council District representative or any Council office. However,

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Commissioners cannot assign themselves as "liaison" to the various Council members and must take care that contact with Council members does not result in a prohibited seriatim meeting of either the Council or the Commission under the Brown Act.

- i. Commissions may not interview candidates for political office or make endorsements of such candidates. Individual Commissioners must not use their Commission title in making personal political endorsements, including using the title for identification purposes only.
- j. Commissioners individually or Commissions as a whole are free to recommend candidates for appointment to any City Board or Commission, including their own, to the City Council, Council Appointment Advisory Commission, Council Liaison or individual Council members.
- k. Commissions may not independently support or oppose state or federal legislation, but instead shall be free to make recommendations on legislation to the City Council through the Rules and Open Government Committee.
- l. Commissioners are prohibited from using their position as a commissioner to promote themselves for personal gain.
- m. Only the City Council has the authority to designate the City's representatives with non-City entities. Commissions may not appoint or invite anyone to act as the City's representative or to advocate a particular cause or viewpoint on behalf of the Commission with any non-City entity. Commissions, however, are free to seek the advice or input of others in the course of making their recommendations to the Council.
- n. Commissioners who are members of an organization which is in litigation against the City on issues related to the work of the Commission should not participate in any Commission discussion or review of matters affecting the organization if they are an officer of the organization, a named litigant in the lawsuit or disqualified because of a conflict of interest. Litigation includes an administrative enforcement action, lawsuit in a court of law or a claim filed with the City or Successor to the Redevelopment Agency.
- o. All conflicts of interest and circumstances giving rise to a perceived conflict of interest should be avoided. Commissioners must avoid the appearance of favoritism towards people and organizations with whom a Commissioner is affiliated. For example, if a Commissioner serves as a volunteer board member for a service organization, the Commissioner must not vote on any matter which will directly affect that organization. The exception to abstention based on organizational affiliation applies where the Commissioner was appointed as a representative of the organization such as the Housing and Community Development Commission.
- p. Commissioners may not contact consultants or others under contract with the City directly, outside of a Commission meeting, unless so authorized by City Administration.
- q. Commissions should only take actions within their authority, duties and responsibilities as specifically set forth in the City's Municipal Code. Assigned legal staff will advise on legal issues related to jurisdiction and authority as required.
- r. Commissioners shall not act as mediators or facilitators between the parties on matters that come before them. Any facilitation must be part of the public process and as requested or required by the City Council.



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- s. Commissions shall place items on the Council agenda in accordance with the Council Rules for the Conduct of its Meetings Resolution. Commissions should not request of Council Members to place items on a Rules and Open Government Committee or City Council Agenda.
  - t. The Chair, as defined by San José Municipal Code Section 2.08.070(B), shall preside at the meetings. The responsibility of the Chair is to make sure that each meeting is conducted in accordance with the San José Municipal Code, the approved Bylaws, this Code of Conduct, and Robert Rules of Order, and that matters before the Commission are dealt with in an orderly, efficient manner.
2. Quasi-Judicial Commissions
- Commissions which sit as hearing bodies and take administrative actions, including the Planning Commission, Civil Service Commission, Board of Fair Campaign and Political Practices and Appeals Hearing Board must be diligent to ensure that a hearing is fair and impartial.
- a. Commissioners should not have ex parte conversations with anyone on the subject, outside of the hearing. If a Commissioner has a communication with a party or a party's representative regarding the subject matter, facts or the issues of an administrative action pending before the Commission, the communication shall be disclosed on the record of the administrative action or proceeding before the action is heard.
  - b. Any visit to the site or other information gained outside of the hearing must be stated on the record. Commissioners should disqualify themselves if there is any appearance of bias.
  - c. Commissioners should not make any public comment on a matter pending before them until after the Commission has rendered a decision.

**B. COUNCIL MEMBERS**

1. Council Liaisons
- The Council Liaison is the Council Member who is specifically assigned to be the liaison between the City Council and the Commission. The primary role of the Liaison is that of facilitator of communications between the Commission and the Council. A Council Member who is appointed to sit as a member of a Board or Commission is not a liaison for purposes of this Policy.
- a. Definition of the Role
  - The Council Liaison shall facilitate communications between the Commission and the Council. The Liaison should not be an advocate for the Commission, give direction or influence a decision of the Commission. The Liaison may, however, assist and provide guidance to Commissions with their workplans or agendas.
  - b. Purpose
  - The Council Liaison acts as:
    - 1) Spokesperson on behalf of the Council when so directed by the Council.
    - 2) Contact person, if the Commission or an individual Commissioner wants such a channel of communication.
    - 3) Monitor for the Commission to identify procedural and structural issues relating to the effective functioning of the Commission for Council.
  - c. Participation Expectation

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- 1) Attendance is discretionary with the Council Member - attendance at Commission meetings is not required but is encouraged. The Council Member may send a member of his/her staff in his/her place.
  - 2) The Council Liaison shall have no vote on the Commission and shall not act as an ex officio member of a Commission.
  - 3) The Council Liaison's attendance at Commission retreats is discouraged unless attendance is requested by the Commission.
- d. Role of Council Liaison Staff
- 1) Council Liaison staff do not serve as "alternates" to the Liaison but may attend to observe, provide information on behalf of the Liaison and answer questions in order to report back to their respective Council members.
  - 2) Council Liaison staff members should not participate in the discussion by the Commission. However, staff can communicate messages on behalf of the Council Liaison and answer Commission questions.
  - 3) Council Liaison staff members who attend meetings may sit at the table with the Commission at the discretion of the Commission or the chair.
2. Council Members
- The following guidelines apply to all Council Members.
- a. Council Members should not speak to any Commissioner on any matter that may come before the Council in a manner designed to influence the Commission. Nor should any Council Member privately lobby any Commissioner outside of the meetings in an attempt to influence his or her individual vote.
  - b. Any Council Member who has testified on his or her own behalf or as a witness before a Commission on any administrative action which then comes to Council is disqualified from participating as a Council Member on the matter only if there is a legal conflict of interest.
  - c. A Council Member must clearly state when he or she is speaking on behalf of the City Council.

### **SECTION V: AUTHORITY OF BOARDS AND COMMISSIONS**

#### **A. LEGISLATION**

Boards and Commissions cannot independently take positions on legislation at the state and federal level. They can, however, recommend positions to the City Council on legislation in areas of their expertise. In addition, Boards and Commissions must act in a timely way to comply with the state and federal legislative schedule, using the following process:

1. Boards and Commissions will send a letter to the Mayor and City Council through the Commission Secretary requesting that they take a position on state or federal legislation.
2. The Mayor and City Council will refer the request to the City Clerk's Office in order to schedule the item on the next available Rules and Open Government Committee agenda.
3. If appropriate, the Rules and Open Government Committee will refer the legislation to the appropriate Council Committee for analysis and recommendation to the City Council. The Commission Secretary will be responsible for notifying the Chair of the Board or Commission when the legislation forwarded by the Board or Commission will be heard by the designated Council Committee.

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**B. POLITICAL INVOLVEMENT**

1. City of San José Boards and Commissions are strictly prohibited from endorsing any candidate or from taking an independent position on any legislation or ballot measure. Further, Boards and Commissions may not be involved in gathering or disseminating information on any candidates or ballot measures (e.g., surveys, public debates, mailings, etc.)
2. Individual members of Boards and Commissions are free to exercise their individual right of political participation such as endorsing or contributing to a particular campaign. Members of certain Commissions (e.g., Planning Commission) must also be aware that State law imposes certain legal restrictions on soliciting or accepting political contributions and participating in quasi-judicial or entitlement actions.
3. No Board or Commission or individual member of a Board or Commission may take or allow any action which gives the appearance of official City involvement in any political campaign. For example, individual members may not use the titles of "Chair," "Vice-Chair," "Commissioner," "Board member," the title of their Board or Commission, or their commissioner title for identification purposes on any endorsement listing. Actual or facsimiles of City stationery or City business cards may not be used for any political mailing or distribution.

**C. BOARD AND COMMISSION REFERRAL SYSTEM**

From time to time, a Board or Commission may have a request for information that is outside the Board or Commission's Work Plan.

1. A "Major Study" means a request for information and/or research which meets one or more of the following criteria:
  - a. It requires 20 staff-hours or more to complete. Exception: In the event of a hiring freeze, department-by-department basis dependent upon the impact of the freeze on a particular department.
  - b. It is not a planned budgeted activity.
  - c. Response action will seriously affect the respondent's annual planned performance or output.
  - d. It will require a formal report.
  - e. Possible change in current policy which was the culmination of extensive public input and/or as a result of committee/task force deliberations (i.e., C & C Tax Task Force or any policy task force, etc.).
  - f. New policy research on which there has been no Council discussion or direction or because of its sensitivity and would involve more than 5 hours of Staff time.
2. All requests for information and/or research outside the Work Plan requested by a Board or Commission must adhere to the following provisions:
  - a. A request for a Major Study requires approval of the Rules and Open Government Committee, and amendment to the Board or Commission's Work Plan.
  - b. A request for a Major Study by a Board or Commission must be submitted in writing from the Board or Commission Chair to the City Clerk to be placed on the next available Rules and Open Government Committee Agenda.
  - c. When a request for information and/or research is made to the Rules and Open Government Committee, it is the responsibility of the appropriate Council Appointee

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and his or her respective staff to determine the scope of the request and to advise the Council through the Rules and Open Government Committee if a Major Study will be required, if the request can be met by reports or material already on file, or a brief research effort will be required.

- d. If approved by a majority of the Rules and Open Government Committee, the guidelines for the Major Study must be stated. Evaluation of the request will take place at the Rules and Open Government Committee meeting using the following criteria:
  - i. If the Major Study is within the parameters of the Board or Commission making the request.
  - ii. The informational value of the study.
  - iii. The parameters of the study.
  - iv. The Staff time to be involved in completing the study.
  - v. The estimated cost of the study.
  - vi. The general feasibility of the study.
3. Boards and Commissions may receive written information that may require minor staff time or is already consistent with the Board or Commission's Work Plan, i.e., requests for information which is part of the Board or Commission's Work Plan should be accommodated.
4. A request for brief verbal information or for copies of reports already prepared and ready for distribution may be made directly to the Board or Commission Secretary.

**D. LETTERS REGARDING COUNCIL OR COUNCIL COMMITTEE ITEMS**

From time to time, a Board or Commission may submit letters or communications to the City Council or Council Committee regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary. Direct email to the entire Council Committee or City Council from the Commission Chair shall not be allowed.

**E. LETTERS REGARDING BOARD OR COMMISSION ITEMS TO NON-CITY ENTITIES**

From time to time, a Board or Commission may desire to submit letters or communications to non-City entities regarding items within their subject matter jurisdiction. The City Clerk will provide guidelines for such letters and communications. Such letters or communications shall be submitted through the Commission Secretary, and be authorized by the Rules and Open Government Committee, or other designated Council Committee, of the City Council. Upon approval by the Committee, the Commission Secretary shall send the letter or communication to the non-City entities on the City's behalf.

**SECTION VI. BOARD AND COMMISSION RECOGNITION**

A member of a Board or commission may be recognized for his or her service as follows:

1. The City Clerk will prepare and present a commendation for each outgoing member of a Board or Commission who have served for at least one year and who have not been reappointed to that Board or Commission. Commendations shall be prepared and presented to all Board and Commission Members that the City Council appoints.
2. No commendation shall be prepared if a person ceases to be a member of a Board or Commission for any reason set forth in San José Municipal Code Section 2.08.050 or

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2.08.130, except resignation or ineligibility, nor shall a commendation be prepared if the vacancy occurs because of insufficient attendance.

**SECTION VI. IMPLEMENTATION**

The City Clerk will provide this Policy to all current Board and Commission members, all Commission Secretaries, all City Council Members and appropriate City employees and will post this Policy on the City Clerk's Boards and Commissions page on the City's website.

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**APPENDIX A**

LIST OF COUNCIL NOMINATED COMMISSIONS

Each Council Member and the Mayor nominates one commissioner to the following commissions. Council Members are not required to nominate commissioners from the district they represent.

- Airport Commission, 11 members
- Arts Commission, 11 members
- Council Appointment Advisory Commission, 11 members
- Housing and Community Development Commission, 15 members:
  - 11 members nominated by Mayor and City Council
  - 1 member recommended by an organization of owners of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
  - 1 member recommended by an organization of residents of San Jose mobilehome parks (nominated by the Council Appointment Advisory Commission if more than one)
  - 1 member who is an owner/manager of a residential rent stabilized rental property nominated by the Council Appointment Advisory Commission
  - 1 member who is a tenant of a residential rent stabilized rental unit nominated by the Council Appointment Advisory Commission
- Human Services Commission, 13 members:
  - 11 nominated by Mayor and City Council
  - 1 disability service provider or disabled community representative nominated by the Council Appointment Advisory Commission
  - 1 domestic violence service provider or domestic violence survivor nominated by the Council Appointment Advisory Commission
- Library and Early Education Commission, 15 members
  - 11 nominated by Mayor and City Council
  - 4 representatives with an early childcare background nominated by the Council Appointment Advisory Commission
- Parks and Recreations Commission, 11 members
- Senior Citizens Commission, 11 members
- Youth Commission, 11 members

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**APPENDIX B**  
**Commission Bylaws Template**

**A RESOLUTION OF THE \_\_\_\_\_ COMMISSION  
ADOPTING AND ESTABLISHING RULES FOR THE CONDUCT OF ITS MEETINGS  
PROCEEDINGS AND BUSINESS, AND REPEALING THE PREVIOUS RESOLUTION**

*WHEREAS*, the \_\_\_\_\_ Commission has found it necessary and desirable to adopt Rules of Order for the conduct of its business, now therefore,

*BE IT RESOLVED BY THE* \_\_\_\_\_ Commission of the City of San Jose that the Commission does hereby adopt Rules of Order for the conduct of its business, as follows:

**RULES OF ORDER**

**ARTICLE I**  
**GENERAL PROVISIONS**

**Section 100. DEFINITIONS.** As used in these rules, unless the context clearly indicates otherwise:

- (a) "Commission" means the \_\_\_\_\_ Commission;
- (b) "Brown Act" means the Ralph M. Brown Act, California Government Code Sections 54950 et seq., as amended.

**Section 101. GENERAL.** The name of the Commission, the number of its members, the members' qualifications, and their appointment, removal and terms of office shall be prescribed by San José Municipal Code Chapter 2.08.

**Section 102. OFFICE.** San Jose City Hall, 200 E. Santa Clara Street, San Jose, California, is designated as the office of the Commission.

**Section 103. REGULAR MEETING PLACE.** Except as the Commission may from time to time provide an alternate location, the regular meeting place of the Commission shall be in San Jose City Hall, 200 E. Santa Clara Street, San Jose, California in a room to be designated on the meeting agenda. If a meeting cannot be held at the regular meeting place of the Commission or other City property, meetings may be held at any place designated by the Chairperson.

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**Section 104. RECORDS.** All books, records, papers, tapes and minutes of the Commission meetings shall be maintained in \_\_\_\_\_, San Jose City Hall, 200 E. Santa Clara Street.

**Section 105. FORMER COMMISSION MEMBERS.** Former Commission members shall be treated as members of the public. Emeritus members shall not be allowed.

**ARTICLE II**  
**OFFICERS**  
**CHAIR AND VICE CHAIR**

**Section 200. ELECTION.** The Chair and Vice-Chair of the Commission shall be elected by the Commission from its membership by signed ballot vote or by oral vote at a Commission meeting.

**Section 201. TERMS OF OFFICE.** The Chair and Vice-Chair shall be elected for terms of one (1) year commencing at noon on the first meeting day of [Month], and continuing to the first meeting day of [Month] of the succeeding year. Elections of the Chair and Vice-Chair shall be conducted at [the Commission's annual retreat OR the first meeting of the Commission immediately following the expiration of the terms of office]. The Chair and Vice-Chair shall serve at the pleasure of the Commission during the term of office and may be removed from office by the Commission at any time for any reason. [select appropriate month and language based on the Commissions terms].

**Section 202. VACANCIES IN OFFICE.** The office of the Chair or Vice-Chair shall become vacant before the expiration of his or her term of office upon the happening of any of the events set forth in sub-sections (A) and (B) of Section 2.08.050 of the City of San José Municipal Code, or upon such officer's absence pursuant to Section 2.08.060, unless excused by the Rules and Open Government Committee. If the Chair or Vice-Chair should cease to be a member of the Commission, or if for any other reason the office of the Chair or Vice-Chair should become vacant prior to the expiration of the term of office, the Commission shall elect a successor to the office of Chair or Vice-Chair for the unexpired portion of the term.

**Section 203. CHAIR, POWERS AND DUTIES.** The Chair shall have the following powers and duties:

- (a) The Chair shall preside at all meetings of the Commission.
- (b) The Chair shall conduct meetings in accordance with the San José Municipal Code, the approved Bylaws, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), Council Policy 0-37 (Code of Conduct for Public Meetings in the Council Chambers and Committee Rooms), and Robert Rules of Order. It is the



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responsibility of the Chair to make sure that matters before the Commission are dealt with in an orderly, efficient manner.

- (c) The Chair shall sign all written resolutions of the Commission and all minutes of all meetings of the Commission which are approved by the Commission.
- (d) The Chair shall perform all other duties which may be required by the City of San José Municipal Code, by ordinance of the City of San Jose, or by resolution or order of the Commission consistent with the Municipal Code and the ordinances of the City of San Jose.

**Section 204. VICE CHAIR, POWERS AND DUTIES.** The Vice-Chair shall have the following powers and duties:

- (a) In the event of and during the absence of the Chair, he or she shall preside as Chair at all meetings of the Commission and shall have and perform all other powers and duties of the Chair; and
- (b) He or she shall perform all duties which may be required of the Vice-Chair by the City Charter, by ordinance or Council Policy of the City of San Jose, or by resolution or order of the Commission consistent with the Charter, ordinances and policies of the City of San Jose.

**ARTICLE III**  
**OFFICERS**  
**CHAIR PRO TEMPORE**

**Section 300.** In the event of vacancies in offices of the Chair and Vice-Chair, or in the event of the absence of the Chair and Vice-Chair, at the time of any meeting, the Commission may elect one of its members Chair Pro Tempore to preside over such meeting during such vacancies or absences. The Chair Pro Tempore shall have all the powers and duties of the Chair during such meeting.

**ARTICLE IV**  
**SECRETARY**

**Section 400. APPOINTMENT.** The Secretary shall be the City staff person designated to serve as such by the City Administration.

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**Section 401. POWERS AND DUTIES.** The Secretary shall have the following powers and duties:

- (a) The Secretary shall attend all meetings of the Commission and shall record or keep minutes of all that transpires;
- (b) The Secretary shall attest all minutes of the meetings of the Commission;
- (c) The Secretary shall preserve, and be custodian of, all books, records, papers and tapes of the Commission. Whenever necessary he or she shall certify true copies of Commission documents; and
- (d) The Secretary shall provide to the Commission agendas and agenda packets, and submit Commission letters, communications and recommendations to the Council.
- (e) The Secretary shall perform all duties required of him or her by these rules and regulations, Council Policy 0-4 (Consolidated Policy Governing Boards and Commissions), and/or required of him or her by resolution or order of the Commission consistent with the City of San José Municipal Code and ordinances of the City of San Jose.

**ARTICLE V**  
**MEETINGS**

**Section 500. GENERAL.** Except as otherwise provided by this article, meetings of the Commission shall be open and public and shall comply with the requirements of the Brown Act and the City Council's Consolidated Open Government and Ethics Resolution.

**Section 501. REGULAR MEETINGS.** Regular meetings of the Commission shall be at the time and place designated by the Commission in coordination with the City Administration. If the time scheduled for a regular meeting falls on a City Holiday, the regular meeting shall be held on the next succeeding business day.

**Section 502. SPECIAL MEETINGS.** A special meeting may be called at any time by the Chair of the Commission, or by a majority of its membership, in accordance with the Brown Act and the additional rules of procedure as described in the City Council's Consolidated Open Government and Ethics Resolution. The agenda shall specify the time and place of the special meeting and the business to be transacted; no other business shall be considered by the Commission at the special meeting.

**Section 503. ADJOURNMENT – ADJOURNED MEETINGS.** The Commission may adjourn any regular, adjourned regular, special or adjourned meeting to a time and place specified in the order of adjournment; a majority of members present, even though less than a quorum

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may so adjourn. If all members are absent from a regular or adjourned regular meeting, the Secretary of the Commission may declare the meeting adjourned to a stated time and place; and he shall cause a written notice of the adjournment to be given in the manner provided in Section 502 for special meetings. A copy of the order or notice of adjournment shall be posted conspicuously on or near the door of the place where the regular, adjourned regular, special or adjourned special meeting was held within twenty-four (24) hours after the time of adjournment.

When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings.

**Section 504. CONTINUANCE.** A convened meeting, or any meeting ordered or noticed to be held, may by order or notice of continuance, be continued or recontinued to any subsequent meeting of the Commission in the same manner and to the same extent set forth in Section 503 for the adjournment of meetings; provided, if a hearing is continued to a time less than twenty-four (24) hours after the time specified in the notice or order of hearing, a copy of the order or notice of continuance shall be posted immediately following the meeting which orders or declares the continuance.

**ARTICLE VI  
MEETING AGENDA AND PROCEDURE**

**Section 600. AGENDA.** The Commission shall provide for an agenda. No discussion may be held of any item that is not on the agenda. The Secretary shall prepare and distribute the agenda for the Commission.

**Section 601. QUORUM.** Six (6) members, being a majority of the total number of seats of the Commission, whether filled or vacant, shall constitute a quorum to transact business. Less than a quorum may adjourn the meeting or adjourn the meeting to a stated time. [quorum is 50% of seats, plus 1. Change the quorum as appropriate for your commission]

**Section 602. VOTING.** No action shall be taken by the Commission except by affirmative vote of a simple majority of those voting, as long as there is a quorum present.

**Section 603. MANNER AND RECORDATION OF VOTES.** Voting by members of the Commission shall be by "ayes" and "noes," and the result of each vote shall be entered by the Secretary in the record of the Commission proceedings. Upon the request of any Commission member, a roll call vote shall be taken on any matter upon which a vote is called, and each vote shall be recorded by the Secretary to the record of the Commission proceedings.

**Section 604. ORDER OF BUSINESS.** At regular meetings of the Commission the order of business shall be conducted in accordance with the requirements of the Brown Act and the

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City Council's Consolidated Open Government and Ethics Resolution. The order of business may be changed at any meeting by the Commission.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by the following vote:

AYES: Commissioners –  
NOES: Commissioners –  
ABSENT: Commissioners –

\_\_\_\_\_  
Chair

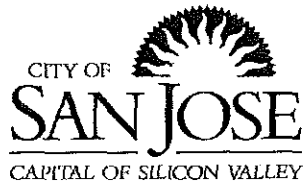
\_\_\_\_\_ Commission

Attest:

\_\_\_\_\_ Commission

\_\_\_\_\_

\_\_\_\_\_ - Secretary



# Memorandum

**TO:** HOUSING AND COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** Jacky Morales-Ferrand

**SUBJECT: PROPOSED CHANGES TO THE  
AFFORDABLE HOUSING IMPACT  
FEE**

**DATE:** October 6, 2016

## RECOMMENDATION

It is recommended that the Housing and Community Development Commission:

1. Accept this status report on the Affordable Housing Impact Fee (AHIF) program; and
2. Provide recommendations **to staff** regarding the following suggested changes to the AHIF:
  - a. Add an exemption to change the threshold size of rental projects to which the AHIF applies from three (3) units to 20 units;
  - b. Reduce the existing housing impact fee by \$4.00 per square foot for mixed residential/commercial market-rate rental projects receiving all Planning Permits by the earlier of January 31, 2020 or adoption of a new Urban Village plan, in which the commercial square footage equals of each building exceeds eight percent (8%) of the project's square footage for the projects in the Downtown and Diridon Station areas and the following urban villages: Valley Fair/Santana Row, West San Carlos, The Alameda, East Santa Clara Street, Roosevelt Park; and
  - c. Amend the provisions exempting For-Sale projects from the AHIF to make the standard for these projects consistent with the adopted AHIF regulations and the adopted Inclusionary Housing guidelines

## BACKGROUND

The City adopted the housing impact fee to mitigate the impacts that market rate apartment development has on the need for affordable housing. A Nexus Study prepared by Keyser Marston Associates (KMA) established a reasonable relationship between the need for affordable housing and new, market-rate rental residential development. This need is created as new market-rate residential rental development leads to a net increase in new residents. The increase in goods and services required by these new residents leads to an increase in job creation in the City. This includes jobs in the service and retail sectors (e.g., teachers, restaurant workers, pet care workers, maintenance workers, etc.) with wages that will not allow these workers to obtain market-rate housing. The resulting impact is an increase in the need for new housing affordable to extremely low-, very low-, low-, and moderate-income households, which an affordable housing impact fee could be used to help provide.

On November 18, 2014, the City Council adopted Resolution No. 77218 establishing the AHIF program. Under the AHIF, new market-rate rental housing developments will be charged \$17.00 per square foot of net rentable space (the "Fee") to address the impact of that type of development on the need for affordable housing. The resolution provided a limited-time grandfathering provision (Pipeline Exemption) open to projects with approvals completed before June 30, 2016, and a limited-time exemption for Downtown High-Rise rental projects. At the time of this initial approval of the AHIF, Councilmembers raised various issues and questions for staff to report back on.

On November 10, 2015, staff reported back on the issues raised by Councilmembers in the prior year. At that time, the Council requested further study and analysis of the economic feasibility of imposing the AHIF on market rate rental units in three different kinds of developments:

- Developments of fewer than 20 units.
- Mixed-use residential/commercial projects.
- Assisted living/memory care facilities for seniors.

Staff retained the firm of Keyser Marston Associates (KMA) to conduct a supplemental evaluation of the impact of the fee on these types of developments and in the locations studied in the case of the mixed-use residential/commercial projects. KMA's report is attached to this memorandum.

### **AHIF Program Implementation**

Since the AHIF Program was adopted in November 2014, information about the Pipeline Exemption process and the requirements of the program was provided to the development community and other stakeholders on numerous occasions. Between January 2015 and September 2016, 25 public meetings were hosted or attended by Housing Department staff. In addition, the Housing Department finalized an interim version of the AHIF Regulations, and developed a program website with detailed information for developers and stakeholders. Finally, the Housing Department created the Affordable Housing Compliance Plan process to provide for evaluation of any exemption claims, to determine if the project is subject to the AHIF or Inclusionary Housing programs, and to calculate the project's affordable housing obligation. The application process requires developers to execute and record an Affordable Housing Agreement to ensure compliance with the applicable program.

### **Existing Exemption Provisions**

Under the AHIF, the Pipeline Exemption allowed a residential rental development to be exempted from paying the Fee if the following criteria were met:

1. A Pipeline Exemption Application was timely completed and approved;
2. The residential development received an eligible entitlement by June 30, 2016;
3. Monitoring fees were paid; and
4. Prior to January 31, 2020, the residential development receives final Certificate of Occupancy for buildings containing at least 50% of the declared units.

A total of 31 Pipeline Exemption Applications were received, and 29 were deemed eligible for the exemption and approved.

In addition to the exemption criteria established by the AHIF, the Downtown High-Rise Exemption allows a development to be exempted from paying the Fee, if the following criteria are met:

1. The development is located in the specific Downtown Core Area, meets the Minimum Height requirement, and is not a For-Sale development;
2. An Affordable Housing Compliance Plan is completed and approved;
3. An Affordable Housing Agreement is recorded, which provides that the Fee shall apply in the event the developer fails to satisfy all exemption requirements; and
4. The project receives its Final Certificates of Occupancy on or before June 30, 2021.

At this time, four (4) developments have been identified as qualifying for the Downtown High-Rise Exemption. At Building Permit issuance, the Department will preliminarily confirm that the Minimum Height and other requirements are met and require the developer to record the Affordable Housing Agreement.

The chart below provides a summary of the projects and the potential revenue from the AHIF that is projected to be foregone as a result of the Downtown High-Rise and Pipeline Exemption Provisions:

Exemption Provisions	Applications Received	Eligible/Qualifying Projects	Exempted Apartments	Foregone AHIF Revenue
Pipeline Exemption	31	29	6,486	\$95,300,584
Downtown High-Rise Exemption	NA <sup>1</sup>	4	1,200 <sup>2</sup>	\$15,000,000 <sup>3</sup>
<b>TOTAL</b>	<b>31</b>	<b>33</b>	<b>7,686</b>	<b>\$112,300,584</b>

### **Revenue Forecast**

Staff has received inquiries as to when the first revenues from the AHIF will be realized. It is expected that the first post-pipeline exemption development projects that are subject to the AHIF will start construction no sooner than Fall 2017. The Fee is generally due at time of Building Permit issuance. However, the AHIF Resolution provides the developer the right to request and receive a deferral of Fee payment until the issuance of a Certificate of Occupancy, if no fees have yet been collected. To the extent that those projects obtaining Building Permits in late-2017 file such appeals, there would be no revenue from them for a minimum of 18 months thereafter, or Spring 2019. While developers may be motivated to request the deferral, staff understands that some construction lenders will require that the Fee be paid at time of Building

<sup>1</sup> Developments submitting for the Downtown High-Rise Exemption may do so before June 30, 2021.

<sup>2</sup> Number estimated by Housing Department Staff, as of September 2016.

<sup>3</sup> Dollar value estimated by Housing Department Staff, as of September 2016.

Permit to avoid the risk of non-payment at construction completion. Thus, it is not possible at this time to accurately estimate when revenue from the AHIF will first be realized.

### Nexus Update

Finally, staff has committed to update of the Nexus Analysis within five years of the effective date of the AHIF Resolution. The Housing Department intends to have the first update of the Nexus Analysis completed within five years of January 18, 2015, the AHIF effective date, or January 2020, to ensure that this goal is met.

## ANALYSIS

### Recommended Changes to AHIF Program

The purpose of the Pipeline Exemption was to allow time for land owners and developers to adjust to the fact that the AHIF will increase development costs and that land prices will have to be modified accordingly.

As mentioned, the Council requested further study and analysis of the economic feasibility of imposing the AHIF on market rate rental units in three different kinds of developments. Staff directed KMA to complete a Supplemental Feasibility Analysis to address the City Council's direction. This document is provided as an **Attachment** to this memorandum. Feasibility for each of these types is addressed separately below.

#### 1. Developments of Fewer Than 20 Units

The AHIF program applies to rental projects of three or more units. KMA's feasibility analysis of small rental projects of 3-19 units concludes that if the City wished to equalize the costs between these small rental projects and larger rental projects, a reduction of the Fee might be appropriate. The Inclusionary Housing Ordinance contains an exemption for projects with less than twenty (20) units. The discrepancy between the two programs makes administering these programs less efficient and more time consuming for staff and developers. This exemption is supported because relieving small rental projects from this Fee obligation will allow the program to spend less of its revenues on administration.

As a practical matter, rental developments of this size are extremely rare. In the past three years, the Planning, Building and Code Enforcement (PBCE) staff has received only one application for this type of development.

Developments of less than 20 units are much more likely to be ownership, and the Inclusionary Housing Ordinance exempts for-sale projects of this size. Nonetheless, unless the smaller projects are exempted from the AHIF, developers of smaller for-sale projects would still be required to submit an Affordable Housing Compliance Plan and be confirmed as for-sale at Building Permit and Certificate of Occupancy. This requirement currently means that Housing



staff must process and monitor Compliance Plans through Certificate of Occupancy for projects that will likely be exempt.

The time required for the Housing Department to complete its review of Affordable Housing Compliance Plan applications, and the time required for the City Attorney's Office to draft and record the Affordable Housing Agreement exceeds the current amount of the application fee. Raising the fee to cover the total staff costs would impose a relatively high fee on these smaller projects. Thus, the additional review process currently required is not cost-effective.

For these reasons, staff recommends that that rental projects of three (3) to 19 units be exempted from the AHIF. Staff estimates that implementing this recommended change to the AHIF program could result in about \$200,000 in foregone revenue through calendar year 2019.

## 2. Mixed-Use Residential/Commercial Projects

The AHIF program included the Pipeline Exemption program in order to provide the development community with time to obtain approval for projects for which the increase in development cost embodied in AHIF was not taken into consideration when the acquisition price for the land was determined. However, City Council was concerned that mixed use developments in urban villages might be unduly disadvantaged by the Fee, and thus one of the Envision 2040 General Plan's major strategy might be frustrated, so a supplemental feasibility analysis was requested.

KMA's supplemental feasibility analysis was based on comparing a prototype mixed-use project (a largely residential development with some amount of the ground floor devoted to commercial use such as retail, restaurant, personal services, or office space) and a prototype all-residential project in buildings of the same size. For the areas studied (five urban villages, the Diridon Station, and Downtown), the analysis found, on average, that the commercial space generated less rent per square foot than residential during the period of the study.

KMA's analysis comparing the two prototypes concluded that a Fee of \$13.00/square could be absorbed by a development in which eight percent (8%) of the building is non-residential. This is slightly higher than the 7% average for current mixed-use developments. Staff recommends this Fee level be accomplished by a temporary reduction in the Fee by \$4.00/square foot. Thus, in the current fiscal year, the resulting Fee level would be \$13.00/square foot. Next fiscal year, for example, when the regular Fee level rises to \$17.41 under the automatic 2.4% annual increase built into the AHIF, the \$4.00/square reduction in Fee level for mixed-use projects would increase to \$13.41/square foot.

Both PBCE staff and Housing staff further recommend that there be a threshold in order to qualify for this lower Fee level so that developers would be providing the amounts of non-residential space that City policy is seeking in the Urban Villages, and the reduction is consistent with the KMA analysis. Staff recommends that this threshold be set at 8% of the project's square footage being devoted to commercial use.

KMA's analysis was limited to current mixed-use projects located in the Downtown, five Urban Village areas without adopted urban village plans (Valley Fair/Santana Row, West San Carlos, The Alameda, East Santa Clara Street, and Roosevelt Park), as well as the Downtown and Diridon Stations areas. Accordingly, the reduction is recommended to be limited to those seven geographic areas. These areas were selected because they are where PBCE staff expects to see most mixed-use development in the near term.

Therefore, staff recommends that the temporary reduction in Fee level for mixed-use projects be provided for these geographic areas that were the subject of the analysis. The reduction in Fee level for projects in the Downtown Area would apply only to those that do not otherwise qualify for the Downtown High-Rise exemption. Staff further recommends that this Fee reduction be available to mixed-use projects that receive approval of all Planning Permits by January 31, 2020 (by which time staff will have completed an updated Nexus Analysis) or, in the case of the Urban Village areas, the adoption of an Urban Village Plan, if one is currently outstanding, whichever comes first.

Staff estimates that implementing this recommended to the AHIF program could result in up to \$1,000,000 in foregone revenue through calendar year 2019.

### 3. Assisted Living/Memory Care Facilities for Seniors

In order to understand this section, it is important to understand how the adopted AHIF would apply to these types of facilities. The AHIF is imposed on the net, rentable square footage of dwelling units in market-rate, rental housing developments. A "dwelling unit" is defined as "a building, or portion of a building, planned or designed as a residence for one family only... and having its own bathroom and housekeeping facilities included in said unit..." For this purpose, "housekeeping facilities" includes a kitchen. Some, but not all, of the units in assisted living/memory care facilities would meet the AHIF program definition of a dwelling unit since they include a second sink outside the bathroom. Inasmuch as a small "dorm" refrigerator and microwave oven or hotplate – all of which are operable using standard 120V electrical outlets – make a complete kitchen if combined with a sink/faucets other than those in the bathroom, the presence of that second sink in a living space makes that room or suite a dwelling unit for purposes of the AHIF.

There is a myriad of senior living arrangements available in the marketplace today. At one end of the scale are convalescent hospitals (sometimes referred to as "skilled nursing facilities") where, "for a minimum of forty hours per week, inpatient nursing care including bed care is provided, and where other medical care may be provided for persons who are ill, injured or infirm (physically or mentally), but excluding persons with communicable diseases, and where no outpatient care [is] provided" (Section 20.200:250 of the Zoning Code). In these facilities, rooms generally have a separate bathroom, but as they are shared by two unrelated individuals and there is no sink outside the bathroom, they are not subject to the AHIF.

At the other end of the scale are senior apartments where individuals or couples live independently in a dwelling unit, with the availability of additional services that are sometimes provided. These apartments will be subject to the AHIF.

It is in between these two extremes that there is a variety of facility and housing type that are broadly labeled and marketed as "assisted living." Some include individual dwelling units, and some do not. Some projects are licensed by the State of California as Residential Care Facilities for the Elderly (RCFEs), to provide services that are non-medical in nature. Most RCFEs include "memory care" units for persons suffering from Alzheimer's or some other form of dementia.

Other projects that are not licensed by the State can provide any of the same services with the exception of memory care units. Anecdotally, staff has heard of senior apartment projects that are essentially independent living with garbage/trash removal from the units being the only service provided, but still billing themselves as "assisted living." Additionally, some assisted living facilities are licensed for the memory care portion of the building and unlicensed for the non-memory care units.

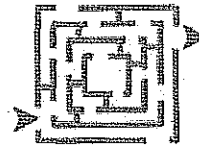
KMA's feasibility analysis concluded that the current economic impact from the AHIF at \$17/square foot would be relatively nominal and would not likely present a significant hurdle for otherwise feasible assisted living projects, including those that incorporate memory care units. For that reason, staff recommends no change to the AHIF program for this category of development.

### **Recommended Change to the AHIF Resolution for For-Sale Projects**

The AHIF incorporates a definition of for-sale developments that requires the sale of the first unit in an ownership project prior to the issuance of the certificate of occupancy to conclusively demonstrate that the project is not rental and therefore not subject to the AHIF. It is not clear that such a sale could be completed prior to the issuance of the certificate of occupancy, so in the regulations (and the guidelines for the Inclusionary Housing Ordinance) the definition has been recast to require confirmation before issuance of the certificate of occupancy based on issuance of a final report by the Bureau of Real Estate, formation of a homeowner's association, and marketing as a for-sale project. Amending the resolution will provide a more readily achievable standard and provide consistency between the resolution and its regulations. Thus, staff recommends that this administratively adopted procedure be reflected in the AHIF Resolution.

/s/  
JACKY MORALES-FERRAND  
Director of Housing

Attachment: Supplemental Feasibility Analysis



# KEYSER MARSTON ASSOCIATES

## **SUPPLEMENTAL FEASIBILITY ANALYSIS RELATED TO RENTAL HOUSING IMPACT FEES**

*Prepared by:*  
**Keyser Marston Associates, Inc.**

*Prepared for:*  
**City of San Jose**

**September 2016**

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## I. Executive Summary

In November 2014, the City Council of the City of San Jose adopted a \$17/square foot affordable housing impact fee on new construction market rate rental apartment projects. The fee was effective as of January 2015<sup>1</sup>. Revenues from the housing fee will be used by the City to increase the supply of affordable housing for Extremely Low-, Very Low-, Low-, and Moderate-Income households.

In considering the new fee, the City Council expressed an interest in understanding the potential financial feasibility impacts the fee could have on the following three land use types:

- Mixed use projects with a combination of rental apartments and commercial uses;
- Senior assisted living projects; and
- Small apartment projects of less than 20 units.

The following is a summary of the findings of the analysis:

### *a) Mixed Use Projects*

The City of San Jose has previously expressed a policy goal of promoting mixed use projects in high priority development areas such as the City's Urban Villages. However, mixed use projects are generally more economically challenging than all-residential projects due to lower rents, more difficulty leasing the non-residential spaces, and higher overall risk profile. Mixed use projects continue to be built in San Jose; however for the above reasons, financial feasibility can be difficult in some cases.

Based on an analysis of the operating income potential of a mixed use project compared to an all-residential project, a difference in overall project value has been quantified. If the City were interested in equalizing the value between the mixed use and all-residential projects (as a means of putting mixed use project on equal economic footing with all-residential projects), the \$17/square foot affordable housing fee could be reduced accordingly. For example, if 8% of the building area of a mixed use project were non-residential and 92% were residential, the housing fee would need to be reduced from \$17/square foot to \$13/square foot.

### *b) Senior Assisted Living Projects*

Senior assisted living projects are senior housing projects that also offer a range of services including meals, housekeeping, assistance with activities of daily living (bathing, dressing, ambulating, etc.), medication management, transportation services, and social activities. Many assisted living projects also include a memory care/Alzheimer's wing with a more intensive level of services.

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<sup>1</sup> Certain projects in the development pipeline at the time of fee adoption as well as Downtown High Rise projects were eligible for a fee exemption.

There are currently four assisted living projects in the City's development pipeline, one of which is in construction, one is readying for construction, and two are in the planning stages. Based on a pro forma analysis estimating the development costs, operating income, and supported private investment of a prototype assisted living project, it has been determined that assisted living projects are generally feasible in San Jose today. If the \$17/square foot fee is applied to assisted living projects, it would represent a relatively small percentage of overall development costs and would not likely present a significant hurdle to the viability of otherwise feasible projects.

*c) Small Apartment Projects*

Small apartment projects under 20 units in size are very rare in San Jose and elsewhere in the Bay Area. Projects of this size are too small for higher density building prototypes, such as multi-story residential units above a parking podium, and in addition, it can be difficult for lower density apartment projects to compete with the often superior economics of for-sale housing prototypes such as townhomes. Small projects can have economic disadvantages compared with larger projects, mostly due to cost inefficiencies attributable to their small size. Similar to mixed use projects, if the City were interested in equalizing the economics of a small apartment project with a more conventionally sized project, the analysis estimates the \$17/square foot housing fee would need to be reduced from \$17/square foot to \$6/square foot.

## II. Background

In November 2014, the City Council of the City of San Jose adopted a \$17/square foot affordable housing impact fee on new construction market rate rental apartment projects. The fee was effective as of January 2015. Revenues from the housing fee will be used by the City to increase the supply of affordable housing for Extremely Low-, Very Low-, Low-, and Moderate-Income households.

In considering the new fee, the City Council expressed an interest in understanding the potential financial feasibility impacts the fee could have on the following three land use types:

- Mixed use projects with a combination of rental apartments and commercial uses;
- Senior assisted living projects; and
- Small apartment projects of less than 20 units.

This report has been prepared by Keyser Marston Associates, Inc. (KMA) in order to address the financial feasibility impacts the housing fee could have on these project types. In performing this assignment, KMA has completed the following work tasks:

- Researched and discussed with City staff the characteristics of prototype mixed use, assisted living, and smaller apartment projects in San Jose;
- Analyzed market conditions and trends for the three project types, both in San Jose and in other urban areas, and considered opportunities and constraints present in the current and near-term markets;
- Prepared a pro forma financial feasibility analysis of the three project types in order to analyze the magnitude of potential impacts from the housing fee; and
- Discussed with City staff options for how the potential impacts could be mitigated.

The feasibility analysis is an estimate of a project's development economics, which generally includes estimates of the costs of development, the operating income, and an analysis of the *ability to attract the necessary investment capital*. With this in mind, it is important that the following caveats be appropriately considered:

- **Prototypical Nature of Analysis** – By its nature, the feasibility analysis contained in this report can only provide an overview-level assessment of development economics because it is based on prototypical projects rather than specific projects. Every project has unique characteristics that will dictate rents supported by the market as well as development costs and developer return requirements. This feasibility analysis is intended to reflect prototypical projects in San Jose but it is recognized that the economics of some projects may look better and some may look worse than those of the prototypes analyzed.
- **Near Term Time Horizon** – This feasibility analysis is a snapshot of real estate market conditions as of mid-2016. The analysis is most informative regarding near term



implications the housing impact fee could have for projects that have already purchased sites and are currently in the pre-development stages. Real estate development economics are fluid and are impacted by constantly changing conditions regarding rent potential, construction costs, land costs, and costs of financing. A year or two from now, conditions will undoubtedly be different to some degree.

- Adjustments to Land Costs over Time – Developers purchase development sites at values that will allow for financially feasible projects. Developers will “price in” the cost of the housing fee when evaluating a project’s economics and negotiating the purchase price for development sites. Given that the fee will apply to all or most projects, downward pressure on land costs could result as developers adjust what they can afford to pay for land. This downward pressure on land prices can, to some degree, bring costs back into better balance with the overall economics supported by projects.

### III. Mixed Use Projects

For purposes of this analysis, mixed use projects are those that have a combination of rental apartments on upper floors and commercial uses such retail, restaurant, personal services (such as beauty salons, dry cleaners, financial services, etc.) or small office spaces on the ground floor. Mixed use projects of this nature are already present in many of the urban infill areas of San Jose. The following is a sampling of mixed use projects currently in the City's development pipeline which are believed to be representative of the sizes, densities, and mix of uses the City could continue to expect going forward. As shown, these projects have a range of 86 to 315 units (averaging 162 units) and a range of roughly 2,700 to 23,000 square feet of non-residential space (averaging 12,600 square feet), representing 3% to 11% of the total building area of the project (averaging 7%).

Pipeline Mixed Use Projects

Project	Acres	Units	Building Square Feet					Density		
			Unit SF	Total NSF	Resid GSF	Non-Res	Non-Res %	Total GSF	DU/Acre	FAR
1 Fairfield West San Carlos	4.72	315	915	288,111	366,810	22,665	6%	389,475	66.7	1.89
2 740 West San Carlos	1.06	95	850	80,750	100,938	2,735	3%	103,673	89.6	2.25
3 785-807 The Alameda	1.04	168	870	146,236	182,795	22,696	11%	205,491	161.5	4.54
4 South First and Reed	0.56	105	698	73,246	91,558	4,200	4%	95,758	188.6	3.95
5 Modera at San Pedro	0.98	201	750	150,661	181,982	11,854	6%	193,836	205.0	4.54
6 525 East Santa Clara	0.60	86	850	73,100	91,375	11,440	11%	102,815	143.3	3.93
Average	1.49	162	837	135,351	169,243	12,598	7%	181,841	108.3	2.80

NSF = net building square feet

DU/Acre = dwelling units per acre

GSF = gross building square feet

FAR = floor area ratio

Source: Project plans; City of San Jose; KMA

Mixed use projects help the City achieve several policy goals including:

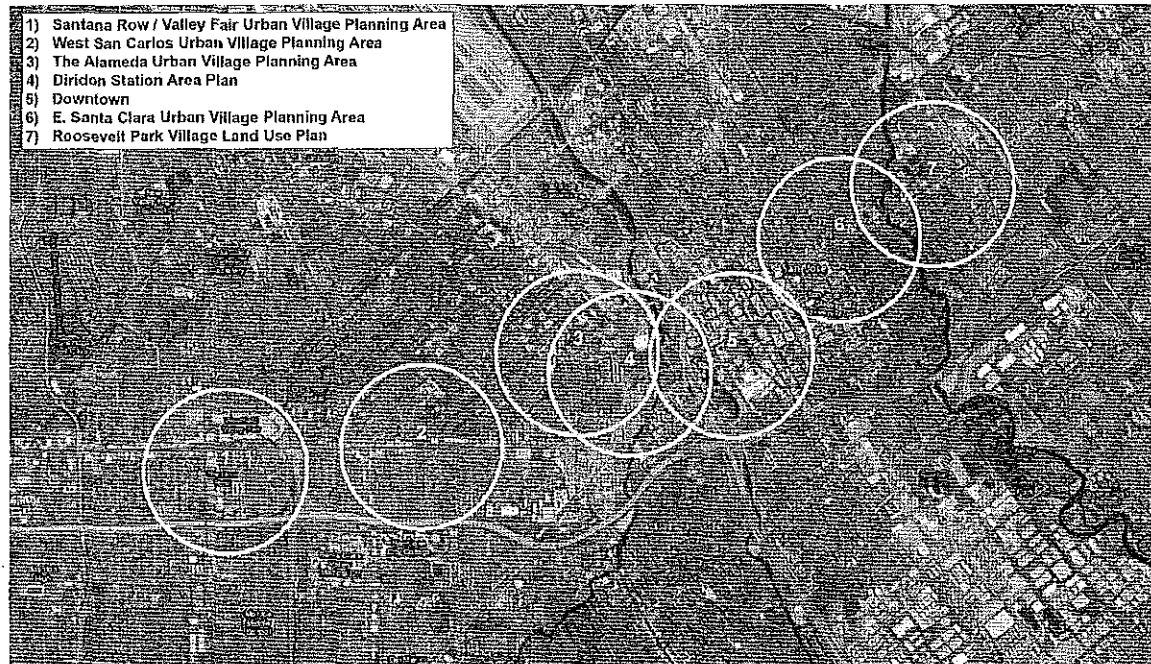
- Redeveloping underutilized properties and revitalizing older neighborhoods;
- Addressing some of the housing needs of the greater Silicon Valley region;
- Adding to the property tax base and generating new sales taxes;
- Providing neighborhood services;
- Activating ground floor spaces;
- Generating new jobs; and
- Producing impact fee revenue to increase the supply of affordable housing in the City.

#### a) Geographic Subareas of Analysis

Vertically integrated mixed use projects (i.e. residential in upper floors with non-residential in the ground floor or lower floors of the same building) are generally located in the urban infill areas of the City of San Jose where rents are high enough to support the costs of building at higher densities and the costs of land assembly and site preparation. For this reason, this analysis is focused on the development economics of mixed use projects in certain subareas of the City. These subareas, which are areas in which the City anticipates significant mixed use development in the future, are shown in the map below. They include Downtown San Jose, the

Diridon Station Specific Plan area, and certain "urban villages" targeted for their potential to accommodate growth. As shown, these seven subareas cover a roughly 5-mile span from the Santana Row/Valley Fair Urban Village on the west to the Roosevelt Park Village Plan Area on the east.

#### Subareas for Mixed Use Projects Analysis



Note: Rings denote 1/2-mile radius

Several of the seven subareas, including Downtown and the Alameda and Diridon plan areas, are already undergoing development on a relatively wide scale with numerous new projects either currently under construction or approved and nearing construction. The Santana Row and West San Carlos areas have a few new planned or recently completed projects while the East Santa Clara and Roosevelt Park Village areas have had limited new development activity to date.

The seven subareas vary with respect to demographic characteristics (household income, residential and employee densities, etc.) as well as supported rental rates and property values<sup>2</sup>. These are among the many factors that have implications on project feasibility.

#### *b) Mixed Use Opportunities and Constraints*

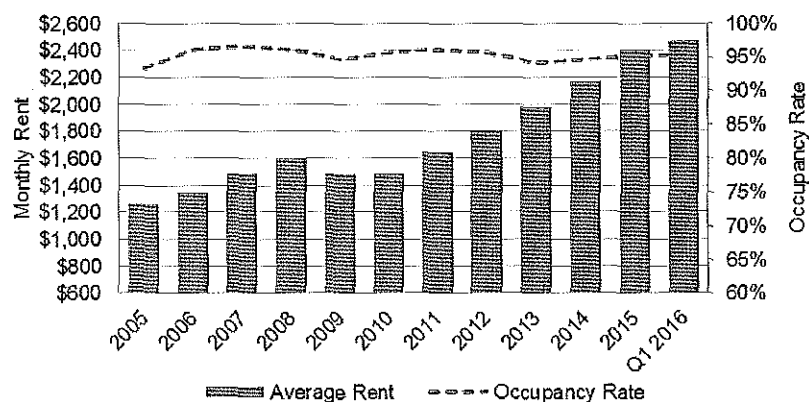
In general, the seven subareas included in this analysis are poised to capture future opportunities for mixed use development. The continuing strength of the regional economy, in particular the growth in high tech jobs, is continuing to put pressures on new housing production throughout Silicon Valley. For the foreseeable future, housing demand will remain high in areas

<sup>2</sup> See Appendix 1 for demographic data. Rental rates among the subareas are discussed further in Section II.c.

close to job centers, which all seven subareas benefit from, and in addition, millennial-generation households have demonstrated a preference for living in higher density, walkable neighborhoods with convenient proximity to restaurants, shops, entertainment and cultural venues, and other big city amenities.

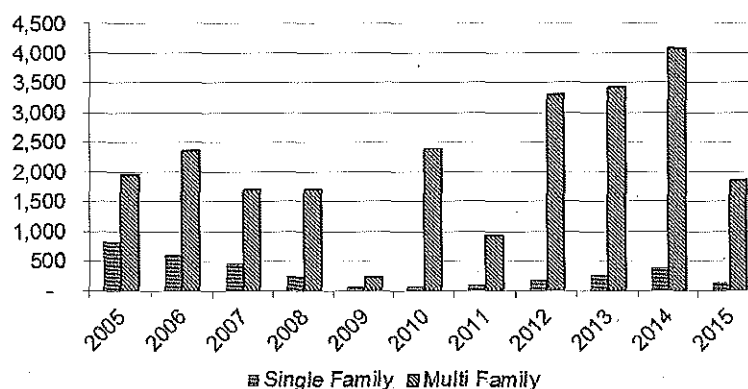
The strength of the rental housing market in San Jose is exhibited by rising apartment rents, stable occupancy rates, and robust construction activity.

**Average Apartment Rent & Occupancy Rate  
City of San Jose**



Source: RealAnswers

**Residential New Construction Building Permits  
City of San Jose**



Source: City of San Jose, Construction Industry Research Board

In terms of retail space potential, a preliminary assessment of retail expenditure trends indicates that the subareas are currently importers of retail sales overall (i.e. there is a surplus of sales relative to consumer demand), although there does appear to be sales leakage in some retail categories such as grocery stores, specialty food stores, general merchandise stores, and for the subareas further from Valley Fair, clothing and shoe stores (see Appendix 2 for further

detail). It would be expected that retail space demand within the subareas will increase over time as the trade areas experience growth and accommodate new residents and employees.

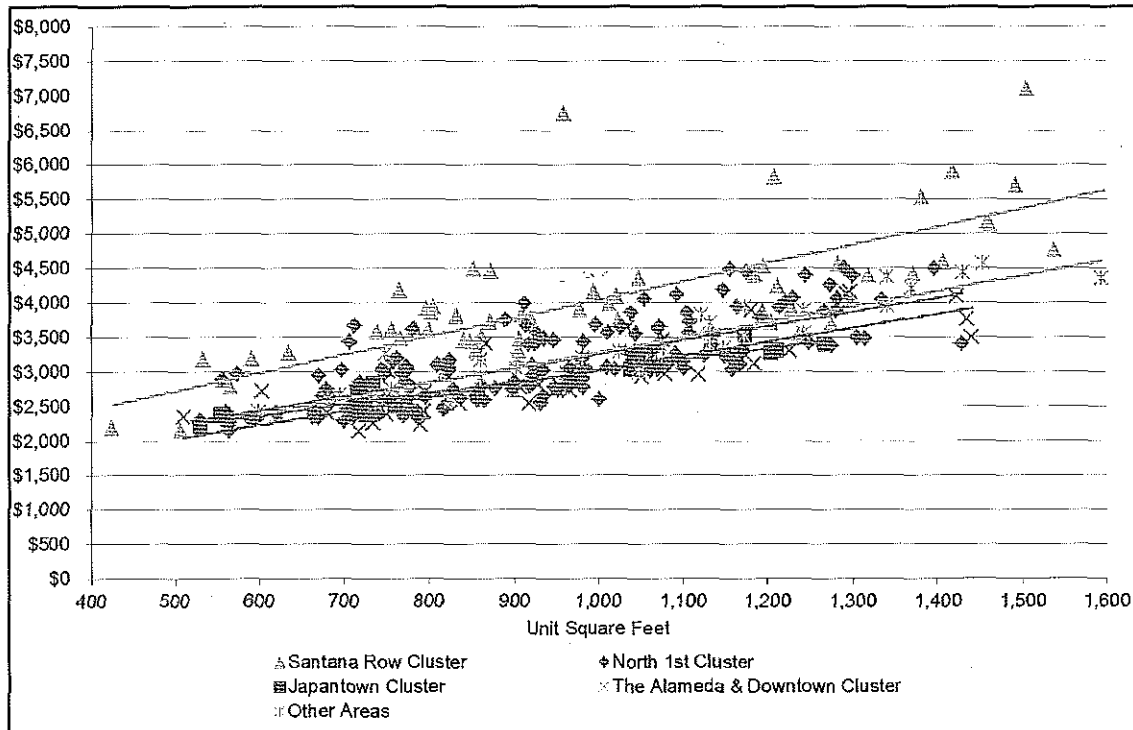
Mixed use projects will need to overcome certain challenges if they are to represent a significant development trend in future years. In general, mixed use projects tend to have development economics that are less financially feasible than all-residential projects. The commercial spaces in mixed use projects are generally more difficult to lease than the residential units, commercial rental rates are generally lower, and there tend to be more financing challenges. In addition, mixed use projects sometimes face design challenges related to integrating the residential and non-residential spaces as well as cost impacts that may be associated with higher parking ratios for retail and restaurant uses.

There are also development challenges that apply to all project types within the seven subareas. For example, many new development projects will need to assemble existing small parcels in order to create an adequately sized development site. This will require negotiating purchase agreements with sometimes multiple private owners and sometimes could involve buying out existing tenant leases. Many development projects will also require upgrading or replacing existing area-wide infrastructure, representing an added cost of development in these areas. Of course, the magnitude of these challenges will vary from one site to another.

#### *c) Mixed Use Project Rents*

Consistent with the rapidly strengthening apartment market in recent years, apartment rents have reached unprecedented highs in many areas. In order to inform this analysis, KMA performed a survey of apartment rents in 31 properties in San Jose. The following chart shows asking apartment rents in four geographic clusters of the City – the Santana Row cluster, the North 1<sup>st</sup> cluster, the Japantown cluster, and the Alameda/Downtown cluster. As shown, rents are the highest in the Santana Row cluster while rents are within a similar range for the remaining clusters. Overall, the apartment rent comps average roughly \$3.50/square foot/month.

### San Jose Apartment Rent Comps



Source: Project websites, online listings (May 2016). See Appendix 3 for details.

Similarly, KMA performed a survey of asking rents for retail and commercial spaces located in or near the seven subareas. On average, the asking rents for these spaces were about \$2.35/square foot/month although it is recognized that some of these spaces are in older buildings where space layouts and quality are inferior to that which would be expected in new development projects (see Appendix 4 for further detail).

#### d) Mixed Use Feasibility Analysis

A financial feasibility analysis typically includes modeling the full development costs of a project as well as the projected operating income and supported private investment. If the operating income and supported investment are in balance with the development costs, the prototype would generally be considered feasible. However, in the case of the seven subareas analyzed, the analysis is difficult because of the unusually wide range of potential project values and development costs from one subarea to another and from one project to another. These variations could come in several forms including variations in property values and land assemblage costs, variations in infrastructure needs and costs, and variations in project density and design.

In order to fully understand the development costs of mixed use projects in the different subareas, a comprehensive analysis would be needed of the infrastructure and site preparation costs (including the existing capacity and physical condition of area-wide utility infrastructure, roadway infrastructure, soils conditions, demolition costs, etc.) associated with each subarea

and how those costs would be funded, as well as further detail on individual property ownerships and existing leasehold encumbrances. The analysis is further complicated by the fact that the City is still in the process of planning for future development in many of the subareas including consideration of issues related to upzoning, value capture, and community benefit obligations<sup>3</sup>.

Given this wide range of potential development costs and the many unknowns associated with those costs, it has been determined that an alternative approach to assessing feasibility was needed for this analysis. In order to gauge the feasibility of mixed use projects, this analysis compares the operating income potential of a prototype mixed use project with that of an all-residential project. All-residential projects are widely feasible in the City of San Jose as evidenced by the large number of projects recently completed and currently under construction. The operating income comparison between a mixed use project and an all-residential project is considered a proxy for financial feasibility to the extent that developers of mixed use projects are put at a competitive disadvantage by having to compete with all-residential projects in purchasing development sites.

In taking this approach, it is acknowledged that: (1) many mixed use projects in San Jose are feasible in their own right notwithstanding their challenges, and (2) many portions of the seven subareas are already being planned for mixed use development rather than all-residential development, meaning existing property owners in these areas would not necessarily be able to achieve a higher land purchase price associated with an all-residential project. Nonetheless, the operating income comparison approach is a way of understanding, in general terms, how mixed use projects could face feasibility challenges relative to an all-residential alternative.

The operating income comparison is summarized in the following Table 1. The analysis compares a 169-unit prototypical all-residential project with a 158-unit mixed used project with 11,700 square feet of non-residential building space (representing 8% of total net rentable building area). Both projects are based on an overall building envelope assuming a 2.75 floor area ratio (FAR). The analysis assumes a monthly apartment rent of \$3.50/square foot (almost \$3,000/unit for an average 850 square foot unit) and a monthly non-residential space rent of \$2.50/square foot, based on the market survey described previously. As shown in Table 1, the total project value for the mixed use project is approximately \$556,000 less than the value of the all-residential project.

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<sup>3</sup> It is noted that many portions of the subareas are currently zoned for relatively low density commercial uses rather than mixed use residential. Therefore, the costs of community benefits (including costs associated with mixed use projects) can be partially or wholly offset by the value created by upzoning.

**Table 1.**  
**Mixed Use Project Analysis**

		<u>All Residential Project</u>	<u>Mixed Use Project</u>	<u>Differential</u>
<u>Development Program</u>				
Site Size		1.50 acres	1.50 acres	0.00
FAR		2.75 FAR	2.75 FAR	0.00
Residential Density		113 du/acre	105 du/acre	(8)
Residential Units		169 units	158 units	(12)
Average Unit Size		850 sf	850 sf	0
<u>Net Rentable Square Feet (NSF)</u>				
Residential		143,760 100%	133,920 92%	(9,840)
Non-Residential		0 0%	11,700 8%	11,700
Total NSF		143,760 100%	145,620 100%	1,860
<u>Gross Square Feet (GSF)</u>				
Residential		179,700	167,400	(12,300)
Non-Residential		0	12,300	12,300
Total GSF		179,700	179,700	0
<u>Project Value</u>				
<u>Residential Income</u>				
Gross Rents	\$3.50	\$6,037,920	\$5,624,640	(\$413,280)
Other Income		\$202,955	\$189,064	(\$13,892)
(Less) Vacancy	5.0%	(\$301,896)	(\$281,232)	\$20,664
(Less) Operating Expenses		(\$845,647)	(\$787,765)	\$57,882
(Less) Property Taxes		(\$954,500)	(\$889,167)	\$65,333
NOI - Residential		\$4,138,832	\$3,855,540	(\$283,292)
Capitalized Value - Residential	5.0%	\$82,776,645	\$77,110,798	(\$5,665,847)
\$/Unit		\$489,428	\$489,428	\$0
<u>Non-Residential Income</u>				
Gross Rents (NNN)	\$2.50	NA	\$369,000	\$369,000
(Less) Vacancy	10.0%	NA	(\$36,900)	(\$36,900)
(Less) Operating Expenses		NA	pass-through	
(Less) Property Taxes		NA	pass-through	
Effective Gross Income/NOI		NA	\$332,100	\$332,100
Capitalized Value - Retail	6.5%	NA	\$5,109,231	\$5,109,231
Total Project Value		\$82,776,645	\$82,220,028	(\$556,616)



If the City wished to equalize the project value between the mixed use project and the all-residential project, one option is for the City to reduce the affordable housing fee from \$17/square foot to roughly \$13/square foot. As shown in the following table, reducing the fee from \$17 to \$13/square foot would reduce the total development costs of the project by \$556,000.

**Example of Mixed Use Project Fee Adjustment**

	<u>Net Sq. Ft. (NSF)*</u>	<u>Fee/NSF</u>	<u>Total Fees</u>
Unadjusted Affordable Housing Fees	133,920	\$17.00	\$2,276,640
(Less) Adjustment for 8% Non-Residential (Table 1)	133,920	(\$4.16)	(\$556,616)
Adjusted Affordable Housing Fees (8% Non-Residential)	133,920	\$12.84	\$1,720,024
Rounded Fee		\$13.00	

\* See Table 1

The fee adjustment shown above is based on a hypothetical mixed use project with 8% of the project's rentable area as non-residential space. If the percentage of non-residential space were less than 8%, theoretically the amount of the fee adjustment would be reduced. If the percentage were more than 8%, the amount would be increased.

It is noted that this analysis did not differentiate either apartment rents or retail rents among the seven subareas. Since the key to the analysis is the apartment/retail rent differential within each of the subareas, the differences among the seven subareas is only relevant to the extent the apartment/retail rent differentials vary within each subarea. For example, while a \$4.00/square foot apartment rent is \$1.00 more than a \$3.00/square foot retail rent in a higher value area, a \$3.00 apartment rent is also \$1.00 more than a \$2.00 retail rent in a lower value area. At this stage, there does not appear to be sufficient evidence to suggest that the apartment/retail rent differentials vary in any significant way among the seven areas.

#### IV. Senior Assisted Living Projects

A second project type that has been analyzed is senior assisted living. Senior assisted living projects are projects that provide housing as well as specified senior services. Typical services offered at assisted living facilities include meals, housekeeping, assistance with activities of daily living (bathing, dressing, ambulating, etc.), medication management, transportation services, and social activities. Many assisted living facilities also offer Alzheimer's or memory care wings, which provide a more intense level of care for this population.

Given the aging population overall, there is a growing need for assisted living facilities throughout the Bay Area and current market conditions are favorable for new project construction. Numerous assisted living projects are either in construction or in the development pipeline in many jurisdictions of the Bay Area including four projects in San Jose.

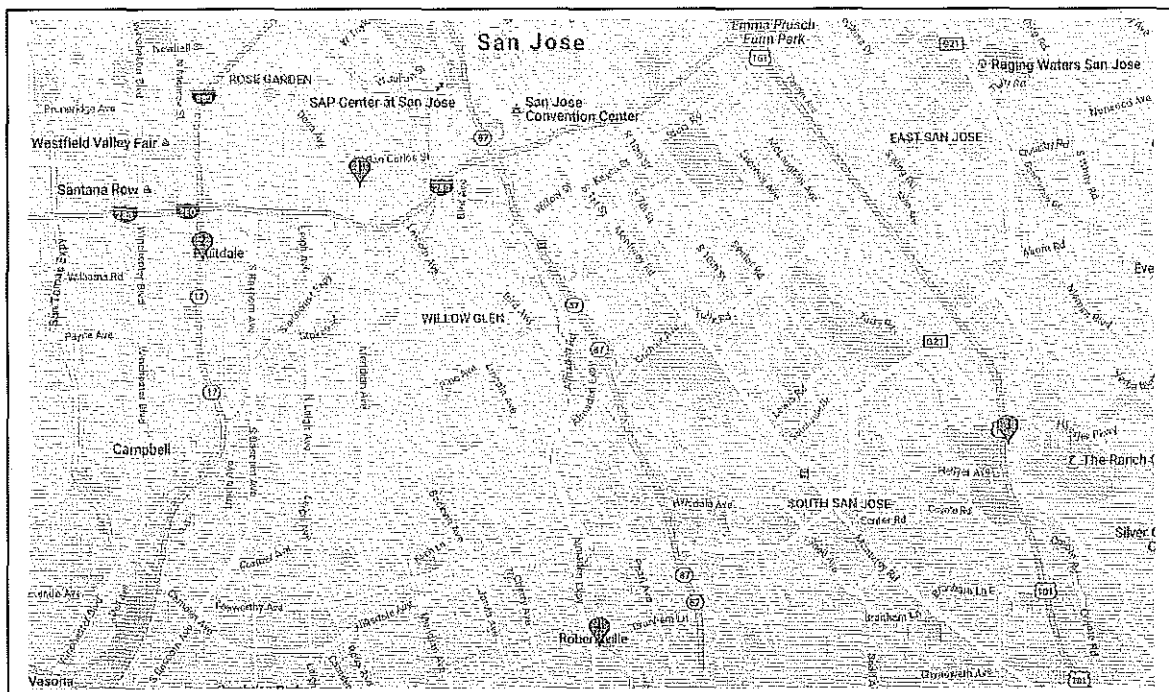
**Pipeline Assisted Living Projects, San Jose**

Project	Program				Gross Bldg SF		Density		Parking		
	Acres	Stories	Units	Beds	Total	/Unit	DU/Acre	FAR	Type	Spaces	/Unit
The Meridian Assisted Living	0.73	3.0	52	78	38,861	747	71.2	1.22	Surface	23	0.44
Thornton Way Assisted Living	0.89	3.0	76	N/A	59,939	789	85.4	1.55	Undergrnd	48	0.63
Dove Hill Assisted Living	3.00	N/A	270	N/A	223,000	826	90.0	N/A	N/A	N/A	N/A
Almaden Assisted Living	3.55	N/A	200	N/A	N/A	N/A	56.3	N/A	N/A	N/A	N/A

**Sources:**

Meridian, Thornton Way, and Almaden: Development applications and project plans on file with City of San Jose.

Dove Hill: Data on file with City of San Jose; CBRE.



(1) Meridian, (2) Thornton Way, (3) Dove Hill, (4) Almaden

Of the four pipeline projects in San Jose, the Thornton Way project is currently nearing completion, the Meridian project is preparing for construction start, and the Dove Hill and Almaden projects are in predevelopment.

In order to assess the financial feasibility of assisted living projects, KMA prepared a development pro forma modeling the economics of a prototypical project. The pro forma includes estimates of development costs (without land acquisition costs and housing fees), operating income, and supported private investment based on threshold development returns. From the analysis, a residual land value can be calculated by deducting the development costs without land from the supported private investment. The residual land value is the amount the project can afford to pay for land. If the residual land value is in line with prevailing land values in the City, the determination would be that the project is feasible. The pro forma is summarized in Table 2 on the following page.

As shown in Table 2, the prototype project is assumed to contain 100 units on 1.25 acres for a density of 80 units per acre. It is assumed that 80 of the 100 units are assisted living units and 20 are memory care units. The project costs are estimated at \$31.6 million and the net operating income is estimated at \$2.4 million. In total, it is estimated that \$37.5 million private investment is supported by current market conditions. From this analysis the residual land value is estimated at \$5.9 million, or \$4.7 million/acre. Based on a review of land sale comparables in San Jose, it has been determined that the \$4.7 million/acre supported land value is well within the range of market land transactions when looking at sites throughout the City and that financial feasibility can be achieved for the prototypical assisted living project even with the new housing fee.

**Table 2.**  
**Assisted Living Feasibility Analysis**

Development Program							
Land							
Land Area					1.25	acres	
Units					100	units	
Gross Residential Density					80.0	du/acre	
Building							
Total Building (GSF)					75,000	sf	
Stories							
Parking					3	stories	
					TBD	spaces/unit	
Income/Expenses							
					\$/Unit	Total	
Income							
Assisted Living Units	80	80%	\$5,500		\$66,000	\$5,280,000	
Memory Support Units	20	20%	\$7,300		\$87,600	\$1,752,000	
Total	100	100%	\$5,860		\$70,320	\$7,032,000	
Other Income					\$3,900	\$390,000	
(Less) Vacancy	7.0%				(\$4,922)	(\$492,240)	
Effective Gross Income					\$69,298	\$6,929,760	
Operating Expenses							
Labor Related					\$27,720	\$2,772,000	
Non-Labor							
Taxes					\$4,180	\$418,000	
Utilities					\$2,400	\$240,000	
Marketing					\$1,100	\$110,000	
Raw Food / Other Dietary					\$2,600	\$260,000	
Repairs & Maintenance					\$1,300	\$130,000	
Management Fee					\$2,080	\$208,000	
All Other Expenses					\$3,500	\$350,000	
Total Expenses					\$44,880	\$4,488,000	
NOI					\$24,418	\$2,441,760	
Development Costs							
					\$/GSF	\$/Unit	Total
Direct Costs							
Total Directs					\$299	\$224,440	\$22,444,000
Total Direct Cost					\$299	\$224,440	\$22,444,000
Indirect & Financing Costs							
Indirect Costs					\$105	\$78,550	\$7,855,000
Financing					\$18	\$13,680	\$1,368,000
Total Indirect Cost					\$123	\$92,230	\$9,223,000
Total Development Costs (excl. Land)					\$422	\$316,670	\$31,667,000
Residual Land Value							
					\$/GSF	\$/Unit	\$/Unit
NOI					\$33	\$24,418	\$2,441,760
Supported Private Investment	6.50% ROC				\$501	\$375,660	\$37,566,000
(Less) Costs excl. Land					(\$422)	(\$316,670)	(\$31,667,000)
Residual Land Value					\$79	\$58,990	\$5,899,000
\$/Acre							\$4,719,200
\$/Land SF							\$108

## V. Small Apartment Projects

The third project type analyzed is a small apartment project under 20 units in size. As a practical matter, new apartments of this size are very rarely built today. City staff is not aware of any rental apartments of this size built in San Jose in recent years nor do there appear to be any in the current development pipeline based on available information<sup>4</sup>. Small apartment projects under 20 units in size are generally not suitable from a physical standpoint for higher density building prototypes, such as those with housing above a parking podium. Furthermore, in areas of the City where a lower density small apartment project would be appropriate, the economics of other building types, such as for-sale townhomes, are often economically superior.

From an economic standpoint, there could be both advantages and disadvantages of a small apartment project as compared with a more conventionally sized project. Potential advantages include:

- **Locational Advantages** – Theoretically, small projects might have an advantage in being able to locate in more desirable neighborhoods due to the flexibility inherent with smaller land requirements. Larger projects that require larger development sites may get pushed to less desirable locations or be forced to pay a land acquisition premium.
- **Reduced Amenity Costs** – Small projects generally do not have some of the tenant amenities common in larger projects, such as a swimming pool, clubhouse, or fitness center. Smaller projects are relieved of the costs of those amenities and instead tend to rely more heavily upon convenient proximity to neighborhood retail, restaurants, and services.
- **No On-site Property Manager** – By law, projects over 16 units in size are required to have an on-site property manager. Small projects under that threshold are relieved of the cost of an on-site property manager and the cost of a property manager's unit and/or an on-site leasing office.

The primary economic disadvantage of small projects is cost inefficiencies. Small projects would not likely be able to achieve the same cost efficiencies as large projects both in respect to direct construction costs (contractor labor and materials costs) and some categories of indirect (soft) costs of development such as predevelopment studies, architecture and design work, legal and administrative/overhead costs, etc.

Taking into account both the advantages and disadvantages of developing a small apartment project vs. a more conventionally sized apartment project, KMA estimates there is an overall cost premium associated with a small project as compared to a larger project. In order to derive the cost estimates, KMA consulted third party construction data sources such as RS Means and Marshall Valuation Service, as well as developer and general contractor cost data for residential projects currently in development or in planning.

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<sup>4</sup> It is noted that the tenure of multi-family projects (rental or for-sale) is not always known for projects in the pipeline.

As shown in the summary table below, the small apartment project is estimated to cost \$411,200/unit to build whereas the larger apartment project is estimated to cost \$401,100/unit. The \$10,100/unit difference represents the cost premium of the small project. On a per square foot basis, the small project cost premium equates to approximately \$11/square foot.

#### Small Apartment Project Analysis

	Small Apartment Project (A)		Large Apartment Project (B)		Small Project Premium (A-B)	
Development Program						
Residential Units	15 units		100 units			
Density	30 du/acre		30 du/acre			
Site Size	0.50 acres		3.33 acres			
Average Unit Size	900 sf		900 sf			
Residential Building Area	13,500 sf		90,000 sf			
Development Costs						
	\$/Unit	Total	\$/Unit	Total	(\$/Unit)	(\$/SF)
Land Acquisition	\$108,900	\$1,633,500	\$108,900	\$10,890,000	\$0	\$0.00
Direct Construction	\$219,733	\$3,296,000	\$211,500	\$21,150,000	\$8,233	\$9.15
Indirects	\$62,600	\$939,000	\$61,340	\$6,134,000	\$1,260	\$1.40
Financing	\$20,000	\$300,000	\$19,400	\$1,940,000	\$600	\$0.67
Total Costs	\$411,233	\$6,168,500	\$401,140	\$40,114,000	\$10,093	\$11.21

This cost premium represents a relatively small percentage of overall development costs and shouldn't present a major hurdle to most otherwise feasible projects. However, similar to the discussion of mixed use projects in Section II, if it is the City's goal to adjust the \$17/square foot housing fee in order to equalize the costs between the small apartment project and the larger apartment project, an approximately \$6/square foot fee would result (\$17 fee minus the \$11).

#### Small Apartments Project Fee Adjustment

	Fee/SF
Unadjusted Affordable Housing Fees	\$17.00
(Less) Small Projects Adjustment (see above)	(\$11.21)
Adjusted Affordable Housing Fee	\$5.79
Rounded	\$6.00

## APPENDICES

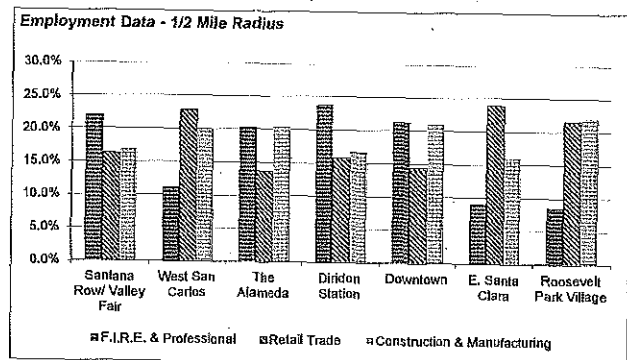
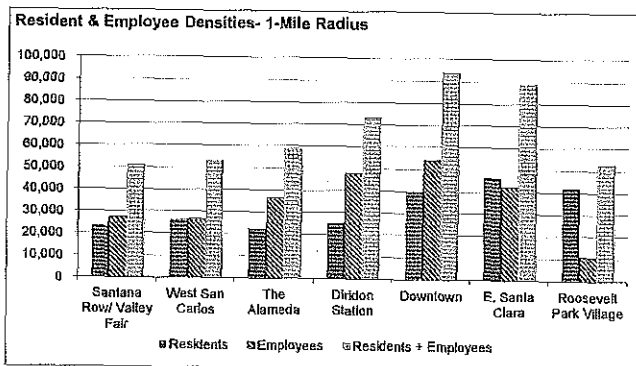
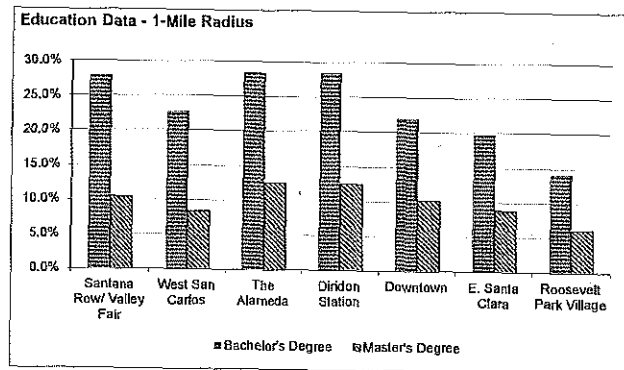
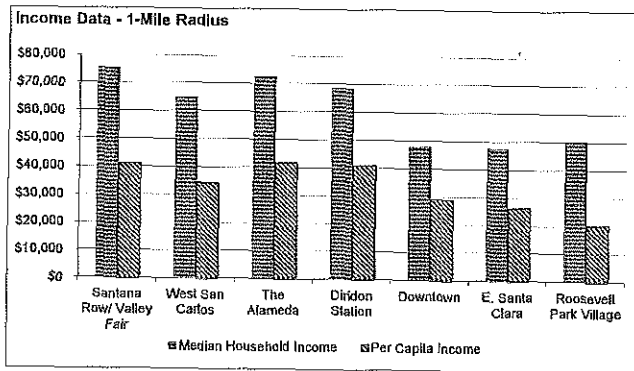
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- Appendix 1      Select Demographic Data by Subarea
- Appendix 2      Preliminary Retail Sales Leakage Data
- 2-mile Radius from Santana Row
  - 2-mile Radius from SAP Center
  - 2-mile Radius from E. Santa Clara & 101
- Appendix 3      Apartment Rent Survey
- Santana Row Cluster
  - North 1<sup>st</sup> Cluster
  - The Alameda & Downtown Cluster
  - Other Areas
- Appendix 4      Non-Residential Space Rent Survey

## Appendix 1. Select Demographic Data by Subarea

1-Mile Radius	Santana Row/ Valley Fair	West San Carlos	The Alameda	Diridon Station	Downtown	E. Santa Clara	Roosevelt Park Village
<b>Population/Employees</b>							
Residents	23,739	26,520	22,485	25,285	39,995	46,535	42,152
Employees	27,301	26,520	36,455	48,009	54,160	42,169	10,731
Residents + Employees	51,040	53,040	58,940	73,294	94,155	88,704	52,883
<b>Income</b>							
Median Household Income	\$75,420	\$64,821	\$72,875	\$68,902	\$48,002	\$47,548	\$50,197
Per Capita Income	\$41,172	\$34,280	\$41,625	\$41,087	\$28,952	\$26,216	\$20,150
<b>Education</b>							
Bachelor's Degree	28.0%	22.8%	28.5%	28.5%	22.0%	19.9%	14.2%
Master's Degree	10.4%	8.4%	12.6%	12.5%	10.2%	8.8%	6.1%
<b>Employment (1/2 Mile Radius)*</b>							
F.I.R.E. & Professional	22.1%	11.3%	20.4%	23.9%	21.4%	9.1%	8.5%
Retail Trade	16.3%	22.9%	13.7%	15.8%	14.4%	24.0%	21.6%
Construction & Manufacturing	17.0%	20.1%	20.4%	16.8%	21.1%	16.1%	22.1%

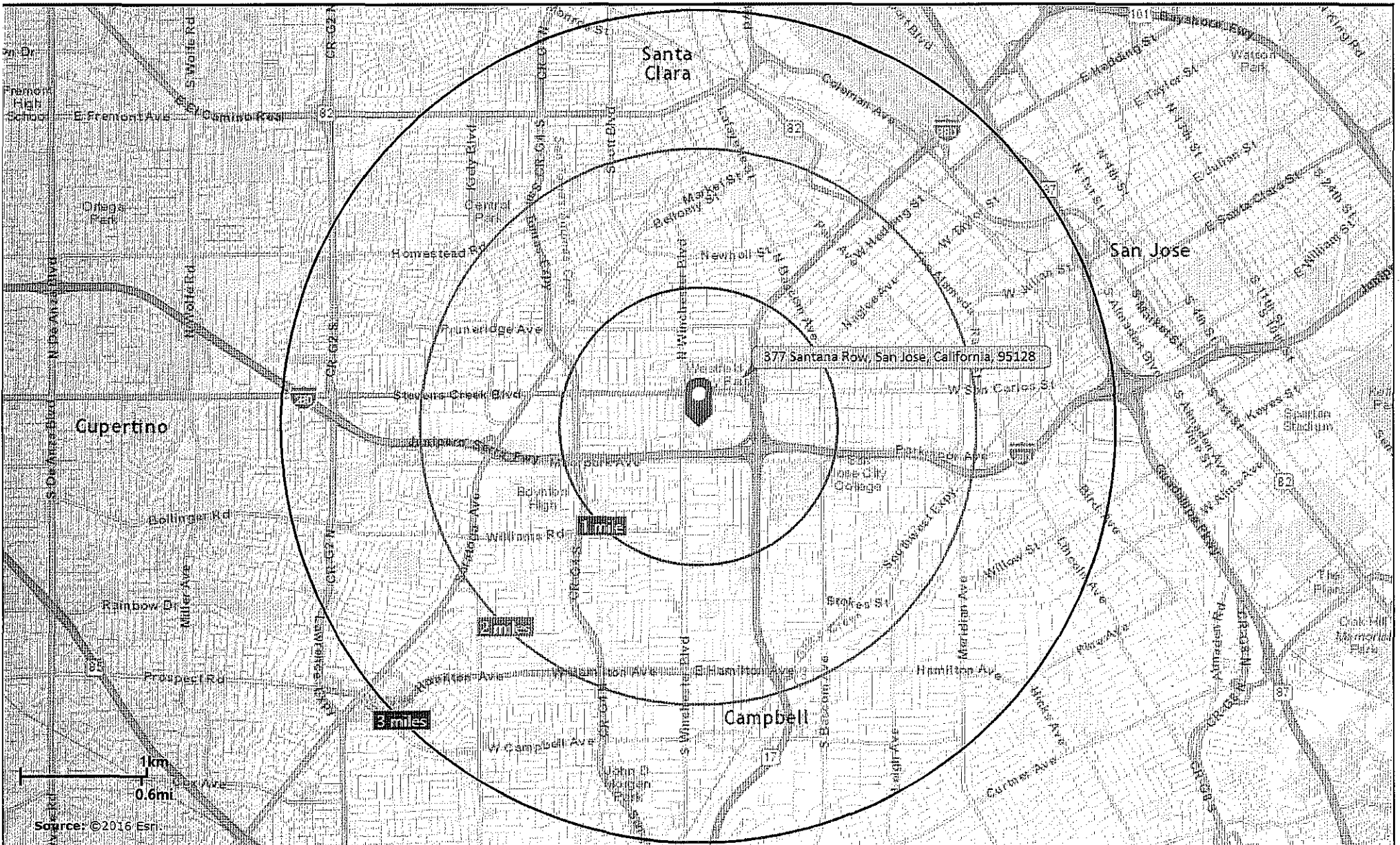
\*select categories only



Source: Census 2010, ESRI (estimated for 2015)



## APPENDIX 2





## Retail MarketPlace Profile

377 Santana Row, San Jose, California, 95128  
Ring: 2 mile radius

Prepared by E  
Latitude: 37.319  
Longitude: -121.948

### Summary Demographics

2016 Population	129,611
2016 Households	49,501
2016 Median Disposable Income	\$57,491
2016 Per Capita Income	\$38,411

### Industry Summary

	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Total Retail Trade and Food & Drink	44-45,722	\$2,445,015,710	\$3,807,193,305	-\$1,362,177,595	-21.8	1,261
Total Retail Trade	44-45	\$2,196,330,345	\$3,572,460,432	-\$1,376,130,087	-23.9	951
Total Food & Drink	722	\$248,685,364	\$234,732,873	\$13,952,491	2.9	311

### Industry Group

	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Motor Vehicle & Parts Dealers	441	\$464,404,588	\$1,204,503,375	-\$740,098,787	-44.3	91
Automobile Dealers	4411	\$383,550,962	\$1,137,213,088	-\$753,662,126	-49.6	6
Other Motor Vehicle Dealers	4412	\$50,421,029	\$48,479,417	\$1,941,612	2.0	1
Auto Parts, Accessories & Tire Stores	4413	\$30,432,596	\$18,810,870	\$11,621,726	23.6	11
Furniture & Home Furnishings Stores	442	\$73,255,494	\$113,181,152	-\$39,925,658	-21.4	41
Furniture Stores	4421	\$40,735,936	\$62,345,022	-\$21,609,086	-21.0	21
Home Furnishings Stores	4422	\$32,519,558	\$50,836,130	-\$18,316,572	-22.0	21
Electronics & Appliance Stores	443	\$119,758,478	\$271,717,200	-\$151,958,722	-38.8	111
Bldg Materials, Garden Equip. & Supply Stores	444	\$96,765,725	\$42,192,400	\$54,573,325	39.3	41
Bldg Material & Supplies Dealers	4441	\$87,509,880	\$40,010,229	\$47,499,651	37.2	41
Lawn & Garden Equip & Supply Stores	4442	\$9,255,846	\$2,182,171	\$7,073,675	61.8	1
Food & Beverage Stores	445	\$436,016,399	\$278,227,444	\$157,788,955	22.1	111
Grocery Stores	4451	\$373,734,426	\$225,594,433	\$148,139,993	24.7	51
Specialty Food Stores	4452	\$40,261,978	\$32,179,281	\$8,082,697	11.2	31
Beer, Wine & Liquor Stores	4453	\$22,019,995	\$20,453,730	\$1,566,265	3.7	21
Health & Personal Care Stores	446,4461	\$140,624,103	\$210,642,523	-\$70,018,420	-19.9	71
Gasoline Stations	447,4471	\$128,592,785	\$76,523,296	\$52,069,489	25.4	31
Clothing & Clothing Accessories Stores	448	\$158,509,057	\$447,058,832	-\$288,549,775	-47.6	231
Clothing Stores	4481	\$115,180,853	\$363,524,400	-\$248,343,547	-51.9	161
Shoe Stores	4482	\$17,207,794	\$37,109,633	-\$19,901,839	-36.6	21
Jewelry, Luggage & Leather Goods Stores	4483	\$26,120,411	\$46,424,799	-\$20,304,388	-28.0	31
Sporting Goods, Hobby, Book & Music Stores	451	\$64,953,040	\$96,597,912	-\$31,644,872	-19.6	51
Sporting Goods/Hobby/Musical Instr Stores	4511	\$55,600,549	\$65,787,466	-\$10,186,917	-8.4	41
Book, Periodical & Music Stores	4512	\$9,352,491	\$30,810,446	-\$21,457,955	-53.4	11
General Merchandise Stores	452	\$347,668,650	\$600,816,820	-\$253,148,170	-26.7	21
Department Stores Excluding Leased Depts.	4521	\$232,303,725	\$585,037,205	-\$352,733,480	-43.2	11
Other General Merchandise Stores	4529	\$115,364,925	\$15,779,615	\$99,585,310	75.9	11
Miscellaneous Store Retailers	453	\$109,273,488	\$65,886,936	\$43,386,552	24.8	91
Florists	4531	\$4,084,421	\$5,219,544	-\$1,135,123	-12.2	11
Office Supplies, Stationery & Gift Stores	4532	\$16,654,136	\$11,377,695	\$5,276,441	18.8	21
Used Merchandise Stores	4533	\$8,130,884	\$11,796,076	-\$3,665,192	-18.4	21
Other Miscellaneous Store Retailers	4539	\$80,404,047	\$37,493,621	\$42,910,426	36.4	41
Nonstore Retailers	454	\$56,508,539	\$165,112,541	-\$108,604,002	-49.0	11
Electronic Shopping & Mail-Order Houses	4541	\$44,654,414	\$163,267,150	-\$118,612,736	-57.0	11
Vending Machine Operators	4542	\$1,295,600	\$459,944	\$835,656	47.6	11
Direct Selling Establishments	4543	\$10,558,525	\$1,385,448	\$9,173,077	76.8	11
Food Services & Drinking Places	722	\$248,685,364	\$234,732,873	\$13,952,491	2.9	311
Full-Service Restaurants	7221	\$139,725,928	\$130,847,448	\$8,878,480	3.3	191
Limited-Service Eating Places	7222	\$98,898,849	\$88,967,229	\$9,931,620	5.3	101
Special Food Services	7223	\$5,323,040	\$9,096,928	-\$3,773,888	-26.2	11
Drinking Places - Alcoholic Beverages	7224	\$4,737,548	\$5,821,268	-\$1,083,720	-10.3	11

Data Note: Supply (retail sales) estimates sales to consumers by establishments. Sales to businesses are excluded. Demand (retail potential) estimates the expected amount spent by consumers at retail establishments. Supply and demand estimates are in current dollars. The Leakage/Surplus Factor presents a snapshot of retail opportunity. This is a measure of the relationship between supply and demand that ranges from +100 (total leakage) to -100 (total surplus). A positive value represents 'leakage' of retail opportunity outside the trade area. A negative value represents a surplus of retail sales, a market where customers are drawn in from outside the trade area. The Retail Gap represents the difference between Retail Potential and Retail Sales. Esri uses the North American Industry Classification System (NAICS) to classify businesses by their primary type of economic activity. Retail establishments are classified into 27 industry groups in the Retail Trade sector, as well as four industry groups within the Food Services & Drinking Establishments subsector. For more information on the Retail MarketPlace data, please click the link below to view the Methodology Statement.  
<http://www.esri.com/library/whitepapers/pdfs/esri-data-retail-marketplace.pdf>

Source: Esri and Infogroup. Retail MarketPlace 2016 Release 1 (2015 data in 2016 geography) Copyright 2016 Infogroup, Inc. All rights reserved.

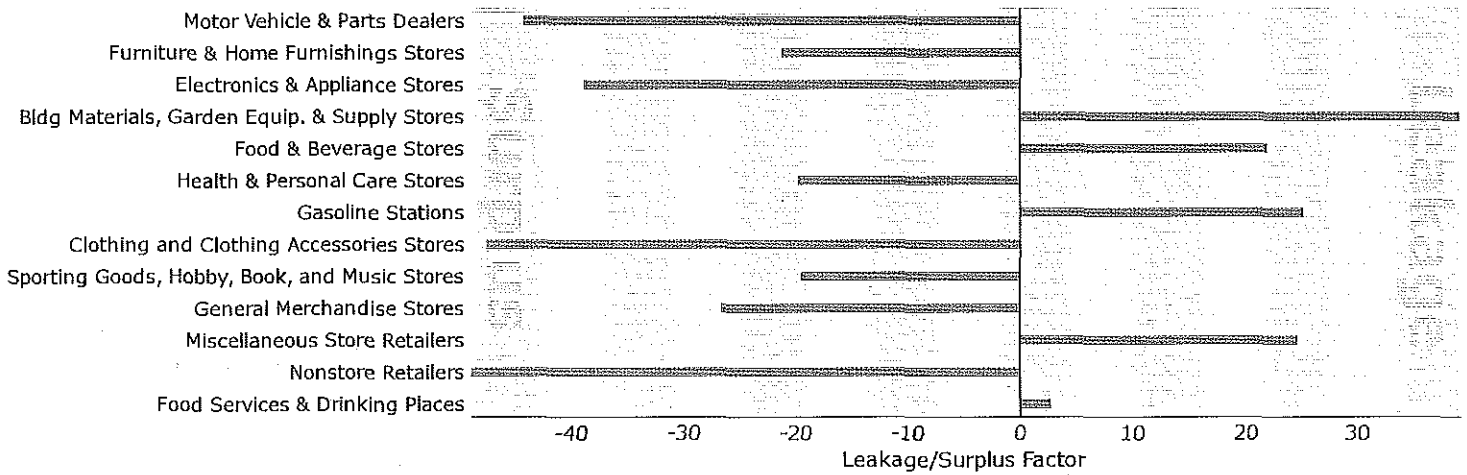


## Retail MarketPlace Profile

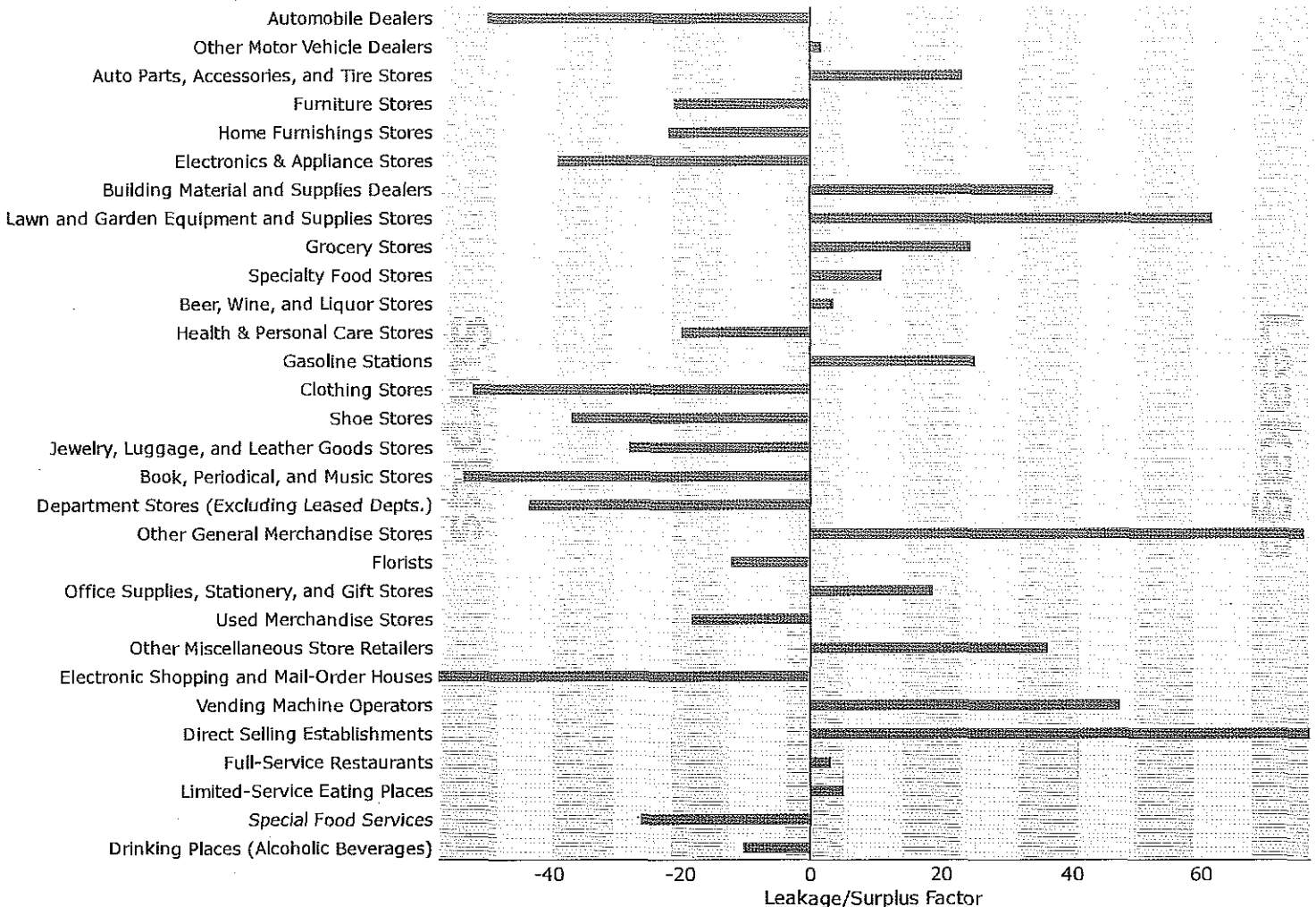
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Ring: 2 mile radius

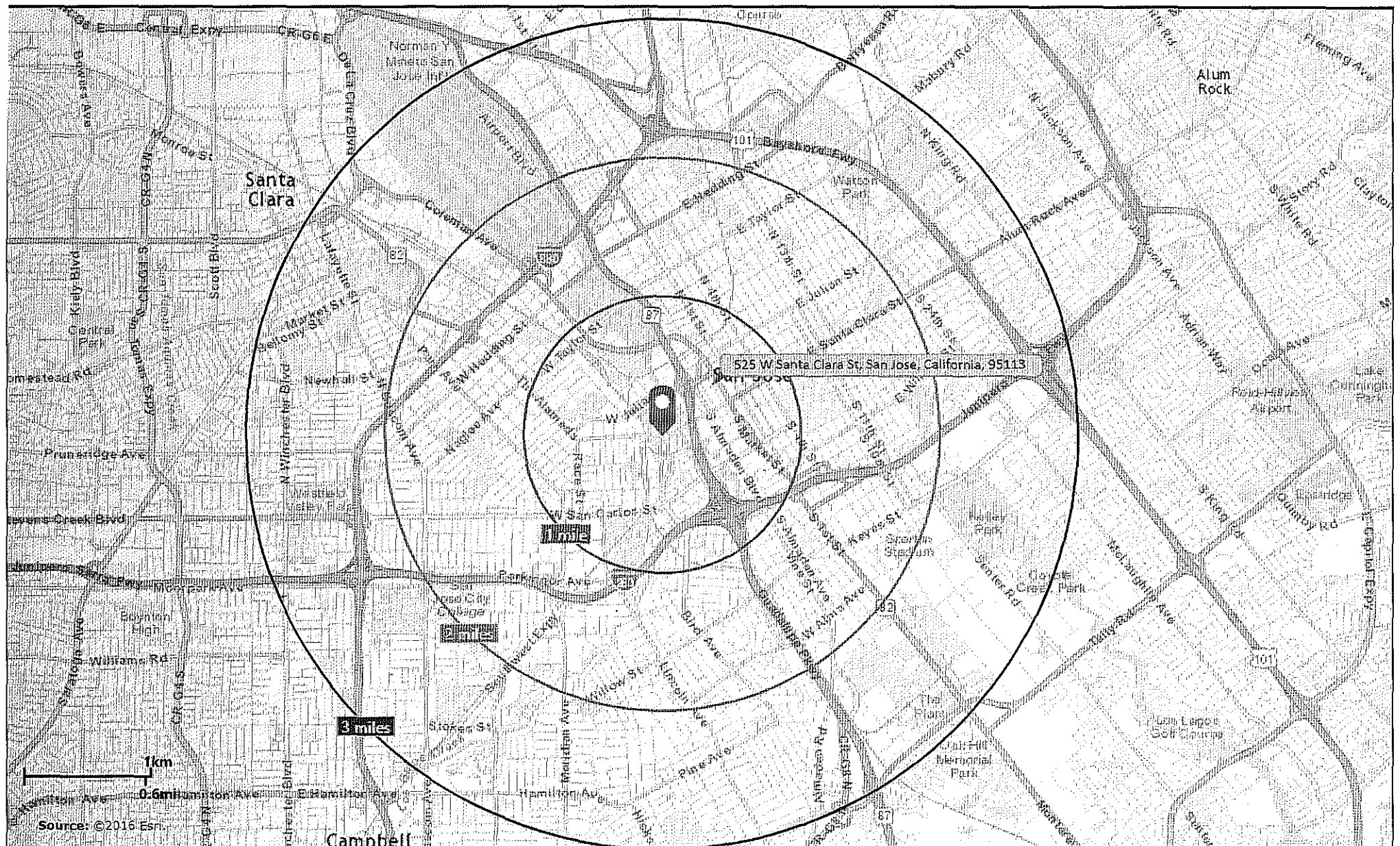
Prepared by E  
Latitude: 37.319  
Longitude: -121.948

### Leakage/Surplus Factor by Industry Subsector



### Leakage/Surplus Factor by Industry Group







## Retail MarketPlace Profile

525 W Santa Clara St, San Jose, California, 95113  
Ring: 2 mile radius

Prepared by E  
Latitude: 37.332  
Longitude: -121.900

### Summary Demographics

2016 Population	126,741
2016 Households	45,971
2016 Median Disposable Income	\$50,921
2016 Per Capita Income	\$34,119

Industry Summary	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Total Retail Trade and Food & Drink	44-45,722	\$2,037,539,316	\$1,882,828,443	\$154,710,873	3.9	1,397
Total Retail Trade	44-45	\$1,827,226,096	\$1,560,982,662	\$266,243,434	7.9	884
Total Food & Drink	722	\$210,313,219	\$321,845,782	-\$111,532,563	-21.0	511

Industry Group	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Motor Vehicle & Parts Dealers	441	\$380,052,855	\$246,860,263	\$133,192,592	21.2	111
Automobile Dealers	4411	\$314,876,594	\$137,321,553	\$177,555,041	39.3	5
Other Motor Vehicle Dealers	4412	\$39,904,138	\$65,534,443	-\$25,630,305	-24.3	1
Auto Parts, Accessories & Tire Stores	4413	\$25,272,124	\$44,004,266	-\$18,732,142	-27.0	5
Furniture & Home Furnishings Stores	442	\$60,494,073	\$34,747,336	\$25,746,737	27.0	3
Furniture Stores	4421	\$33,854,979	\$18,243,853	\$15,611,126	30.0	1
Home Furnishings Stores	4422	\$26,639,094	\$16,503,483	\$10,135,611	23.5	1
Electronics & Appliance Stores	443	\$99,240,558	\$210,797,038	-\$111,556,480	-36.0	9
Bldg Materials, Garden Equip. & Supply Stores	444	\$76,999,897	\$79,712,860	-\$2,712,963	-1.7	8
Bldg Material & Supplies Dealers	4441	\$69,829,723	\$77,659,571	-\$7,829,848	-5.3	7
Lawn & Garden Equip & Supply Stores	4442	\$7,170,174	\$2,053,289	\$5,116,885	55.5	
Food & Beverage Stores	445	\$368,976,460	\$327,178,399	\$41,798,061	6.0	13
Grocery Stores	4451	\$316,303,284	\$284,950,111	\$31,353,173	5.2	8
Specialty Food Stores	4452	\$34,118,095	\$21,375,578	\$12,742,517	23.0	3
Beer, Wine & Liquor Stores	4453	\$18,555,081	\$20,852,710	-\$2,297,629	-5.8	2
Health & Personal Care Stores	446,4461	\$116,343,509	\$187,734,635	-\$71,391,126	-23.5	5
Gasoline Stations	447,4471	\$107,019,037	\$93,011,690	\$14,007,347	7.0	3
Clothing & Clothing Accessories Stores	448	\$134,349,110	\$46,061,250	\$88,287,860	48.9	8
Clothing Stores	4481	\$97,897,925	\$32,959,508	\$64,938,417	49.6	6
Shoe Stores	4482	\$14,825,592	\$1,737,238	\$13,088,354	79.0	
Jewelry, Luggage & Leather Goods Stores	4483	\$21,625,593	\$11,364,503	\$10,261,090	31.1	2
Sporting Goods, Hobby, Book & Music Stores	451	\$54,086,678	\$63,824,755	-\$9,738,077	-8.3	6
Sporting Goods/Hobby/Musical Instr Stores	4511	\$46,053,255	\$39,443,702	\$6,609,553	7.7	4
Book, Periodical & Music Stores	4512	\$8,033,423	\$24,381,053	-\$16,347,630	-50.4	1
General Merchandise Stores	452	\$292,508,115	\$89,580,589	\$202,927,526	53.1	1
Department Stores Excluding Leased Depts.	4521	\$195,082,180	\$69,483,912	\$125,598,268	47.5	
Other General Merchandise Stores	4529	\$97,425,934	\$20,096,676	\$77,329,258	65.8	1
Miscellaneous Store Retailers	453	\$90,572,412	\$127,544,011	-\$36,971,599	-17.0	16
Florists	4531	\$3,164,159	\$7,482,376	-\$4,318,217	-40.6	3
Office Supplies, Stationery & Gift Stores	4532	\$13,850,394	\$11,398,227	\$2,452,167	9.7	2
Used Merchandise Stores	4533	\$6,870,777	\$29,349,283	-\$22,478,506	-62.1	3
Other Miscellaneous Store Retailers	4539	\$66,687,081	\$79,314,125	-\$12,627,044	-8.6	6
Nonstore Retailers	454	\$46,583,392	\$53,929,837	-\$7,346,445	-7.3	1
Electronic Shopping & Mail-Order Houses	4541	\$37,276,060	\$50,298,416	-\$13,022,356	-14.9	
Vending Machine Operators	4542	\$1,097,881	\$914,027	\$183,854	9.1	
Direct Selling Establishments	4543	\$8,209,452	\$2,717,394	\$5,492,058	50.3	
Food Services & Drinking Places	722	\$210,313,219	\$321,845,782	-\$111,532,563	-21.0	511
Full-Service Restaurants	7221	\$118,187,635	\$208,040,169	-\$89,852,534	-27.5	33
Limited-Service Eating Places	7222	\$83,579,052	\$84,368,314	-\$789,262	-0.5	12
Special Food Services	7223	\$4,418,907	\$5,440,635	-\$1,021,728	-10.4	1
Drinking Places - Alcoholic Beverages	7224	\$4,127,625	\$23,996,665	-\$19,869,040	-70.6	3

Data Note: Supply (retail sales) estimates sales to consumers by establishments. Sales to businesses are excluded. Demand (retail potential) estimates the expected amount spent by consumers at retail establishments. Supply and demand estimates are in current dollars. The Leakage/Surplus Factor presents a snapshot of retail opportunity. This is a measure of the relationship between supply and demand that ranges from +100 (total leakage) to -100 (total surplus). A positive value represents 'leakage' of retail opportunity outside the trade area. A negative value represents a surplus of retail sales, a market where customers are drawn in from outside the trade area. The Retail Gap represents the difference between Retail Potential and Retail Sales. Esri uses the North American Industry Classification System (NAICS) to classify businesses by their primary type of economic activity. Retail establishments are classified into 27 industry groups in the Retail Trade sector, as well as four industry groups within the Food Services & Drinking Establishments subsector. For more information on the Retail MarketPlace data, please click the link below to view the Methodology Statement.  
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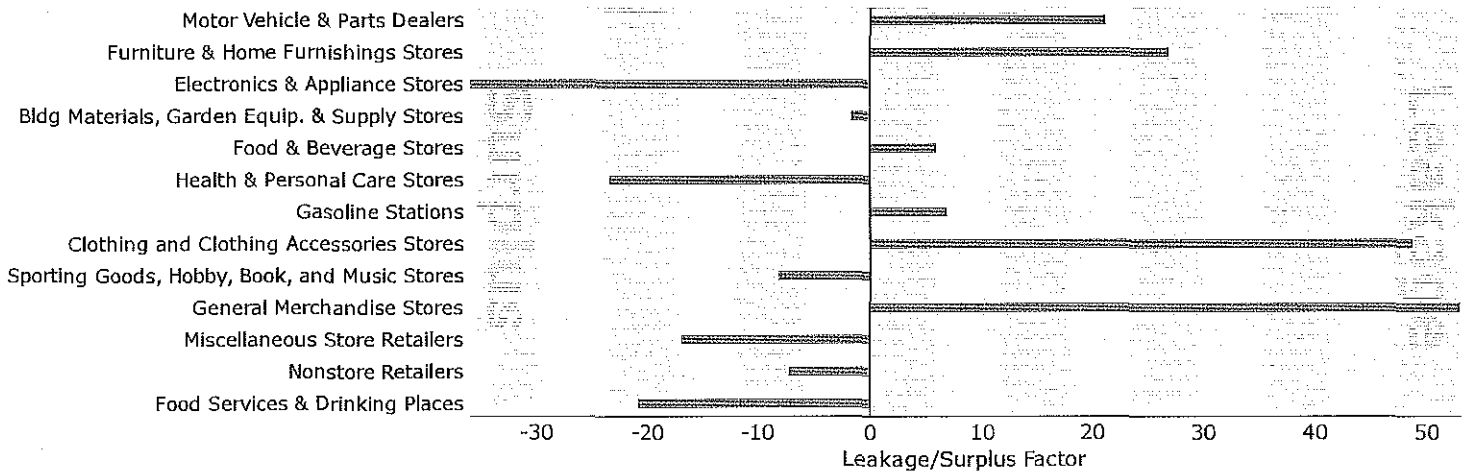


## Retail MarketPlace Profile

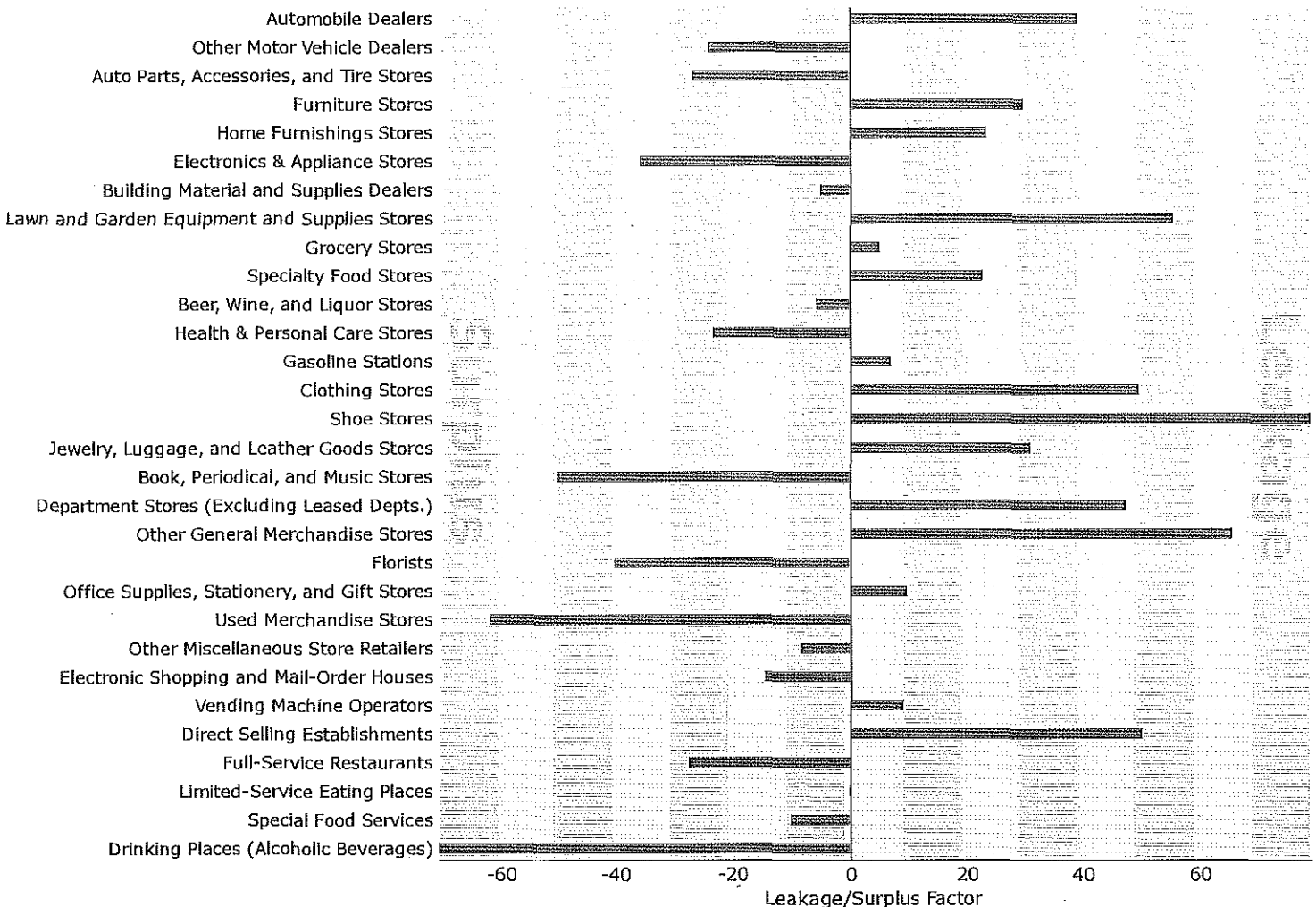
525 W Santa Clara St, San Jose, California, 95113  
Ring: 2 mile radius

Prepared by E  
Latitude: 37.332  
Longitude: -121.900

### Leakage/Surplus Factor by Industry Subsector

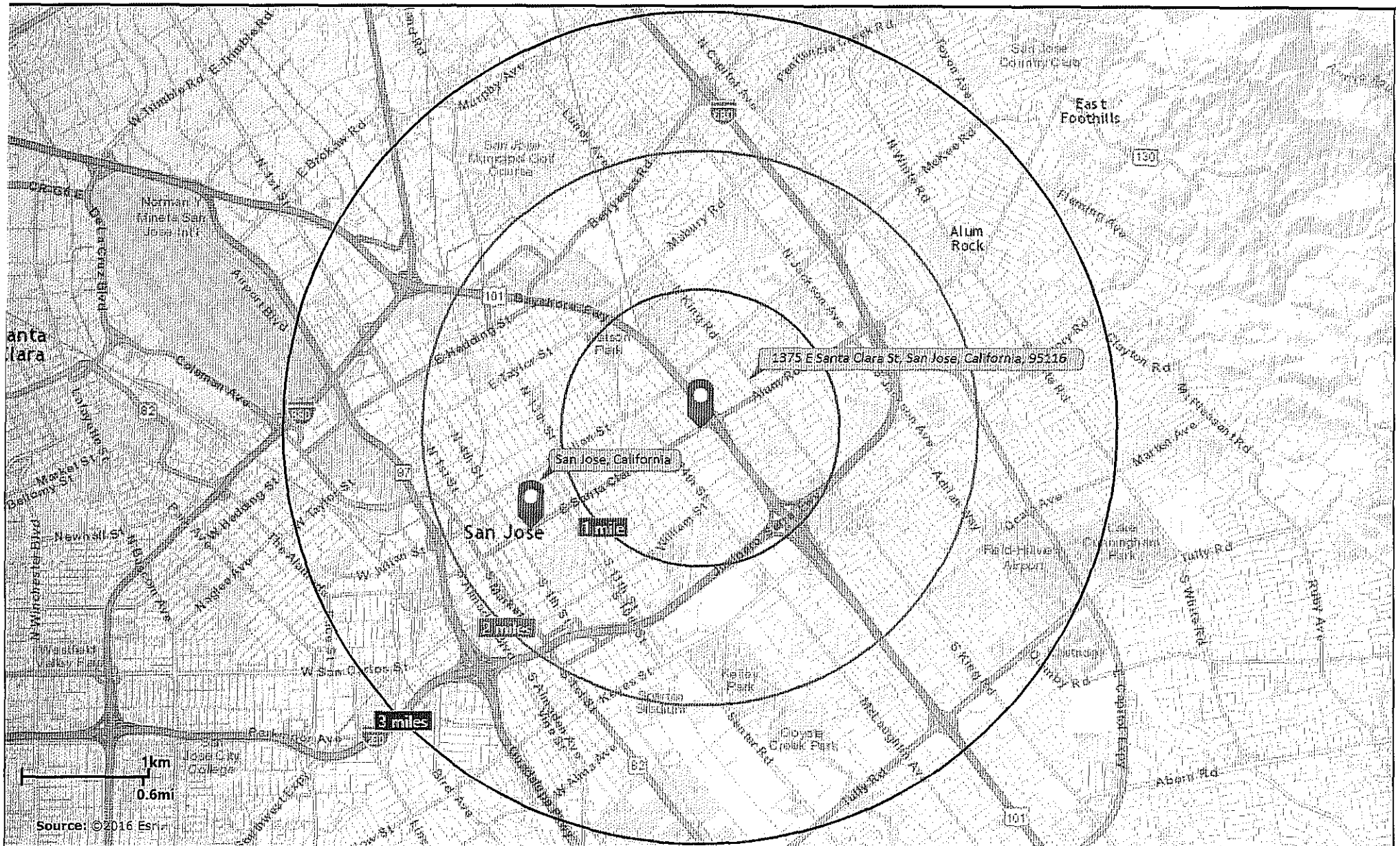


### Leakage/Surplus Factor by Industry Group



Source: Esri and Infogroup. Retail MarketPlace 2016 Release 1 (2015 data in 2016 geography) Copyright 2016 Infogroup, Inc. All rights reserved.

July 18, 2016





## Retail MarketPlace Profile

1375 E Santa Clara St, San Jose, California, 95116  
Ring: 2 mile radius

Prepared by E  
Latitude: 37.349  
Longitude: -121.863

### Summary Demographics

2016 Population	160,718
2016 Households	45,701
2016 Median Disposable Income	\$43,890
2016 Per Capita Income	\$21,841

Industry Summary	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Total Retail Trade and Food & Drink	44-45,722	\$1,726,274,841	\$1,652,289,513	\$73,985,328	2.2	1,290
Total Retail Trade	44-45	\$1,551,114,960	\$1,374,716,902	\$176,398,058	6.0	790
Total Food & Drink	722	\$175,159,880	\$277,572,611	-\$102,412,731	-22.6	500

Industry Group	NAICS	Demand (Retail Potential)	Supply (Retail Sales)	Retail Gap	Leakage/Surplus Factor	Number of Businesses
Motor Vehicle & Parts Dealers	441	\$322,847,520	\$190,691,214	\$132,156,306	25.7	70
Automobile Dealers	4411	\$266,502,451	\$143,441,419	\$123,061,032	30.0	20
Other Motor Vehicle Dealers	4412	\$34,846,711	\$4,394,666	\$30,452,045	77.6	1
Auto Parts, Accessories & Tire Stores	4413	\$21,498,357	\$42,855,129	-\$21,356,772	-33.2	4
Furniture & Home Furnishings Stores	442	\$50,600,279	\$22,264,046	\$28,336,233	38.9	20
Furniture Stores	4421	\$28,194,140	\$13,923,790	\$14,270,350	33.9	10
Home Furnishings Stores	4422	\$22,406,139	\$8,340,256	\$14,065,883	45.7	1
Electronics & Appliance Stores	443	\$84,194,593	\$158,279,405	-\$74,084,812	-30.6	70
Bldg Materials, Garden Equip. & Supply Stores	444	\$66,570,034	\$48,114,686	\$18,455,348	16.1	50
Bldg Material & Supplies Dealers	4441	\$60,527,186	\$46,698,069	\$13,829,117	12.9	50
Lawn & Garden Equip & Supply Stores	4442	\$6,042,848	\$1,416,617	\$4,626,231	62.0	1
Food & Beverage Stores	445	\$313,688,898	\$299,283,310	\$14,405,588	2.4	150
Grocery Stores	4451	\$269,174,771	\$259,094,091	\$10,080,680	1.9	80
Specialty Food Stores	4452	\$29,073,828	\$23,061,640	\$6,012,188	11.5	40
Beer, Wine & Liquor Stores	4453	\$15,440,299	\$17,127,579	-\$1,687,280	-5.2	20
Health & Personal Care Stores	446,4461	\$98,685,921	\$137,151,465	-\$38,465,544	-16.3	50
Gasoline Stations	447,4471	\$92,068,698	\$71,902,237	\$20,166,461	12.3	20
Clothing & Clothing Accessories Stores	448	\$113,240,772	\$53,038,026	\$60,202,746	36.2	110
Clothing Stores	4481	\$82,525,285	\$18,048,940	\$64,476,345	64.1	50
Shoe Stores	4482	\$12,718,853	\$7,781,348	\$4,937,505	24.1	10
Jewelry, Luggage & Leather Goods Stores	4483	\$17,996,633	\$27,207,739	-\$9,211,106	-20.4	40
Sporting Goods, Hobby, Book & Music Stores	451	\$45,992,946	\$29,853,558	\$16,139,388	21.3	30
Sporting Goods/Hobby/Musical Instr Stores	4511	\$39,240,657	\$20,060,827	\$19,179,830	32.3	20
Book, Periodical & Music Stores	4512	\$6,752,288	\$9,792,731	-\$3,040,443	-18.4	10
General Merchandise Stores	452	\$247,860,383	\$222,518,299	\$25,342,084	5.4	300
Department Stores Excluding Leased Depts.	4521	\$165,071,075	\$201,610,883	-\$36,539,808	-10.0	20
Other General Merchandise Stores	4529	\$82,789,308	\$20,907,416	\$61,881,892	59.7	10
Miscellaneous Store Retailers	453	\$76,413,606	\$85,449,958	-\$9,036,352	-5.6	120
Florists	4531	\$2,648,489	\$3,966,829	-\$1,318,340	-19.9	20
Office Supplies, Stationery & Gift Stores	4532	\$11,737,724	\$4,970,042	\$6,767,682	40.5	20
Used Merchandise Stores	4533	\$5,782,275	\$24,319,126	-\$18,536,851	-61.6	10
Other Miscellaneous Store Retailers	4539	\$56,245,119	\$52,193,961	\$4,051,158	3.7	50
Nonstore Retailers	454	\$38,951,311	\$56,170,698	-\$17,219,387	-18.1	10
Electronic Shopping & Mail-Order Houses	4541	\$31,486,544	\$53,077,823	-\$21,591,279	-25.5	10
Vending Machine Operators	4542	\$934,751	\$816,837	\$117,914	6.7	10
Direct Selling Establishments	4543	\$6,530,016	\$2,276,038	\$4,253,978	48.3	10
Food Services & Drinking Places	722	\$175,159,880	\$277,572,611	-\$102,412,731	-22.6	500
Full-Service Restaurants	7221	\$98,181,741	\$169,772,146	-\$71,590,405	-26.7	330
Limited-Service Eating Places	7222	\$70,015,196	\$86,730,125	-\$16,714,929	-10.7	130
Special Food Services	7223	\$3,654,581	\$3,522,242	\$132,339	1.8	10
Drinking Places - Alcoholic Beverages	7224	\$3,308,362	\$17,548,098	-\$14,239,736	-68.3	20

**Data Note:** Supply (retail sales) estimates sales to consumers by establishments. Sales to businesses are excluded. Demand (retail potential) estimates the expected amount spent by consumers at retail establishments. Supply and demand estimates are in current dollars. The Leakage/Surplus Factor presents a snapshot of retail opportunity. This is a measure of the relationship between supply and demand that ranges from +100 (total leakage) to -100 (total surplus). A positive value represents 'leakage' of retail opportunity outside the trade area. A negative value represents a surplus of retail sales, a market where customers are drawn in from outside the trade area. The Retail Gap represents the difference between Retail Potential and Retail Sales. Esri uses the North American Industry Classification System (NAICS) to classify businesses by their primary type of economic activity. Retail establishments are classified into 27 industry groups in the Retail Trade sector, as well as four industry groups within the Food Services & Drinking Establishments subsector. For more information on the Retail MarketPlace data, please click the link below to view the Methodology Statement.

<http://www.esri.com/library/whitepapers/pdfs/esri-data-retail-marketplace.pdf>

**Source:** Esri and Infogroup. Retail MarketPlace 2016 Release 1 (2015 data in 2016 geography) Copyright 2016 Infogroup, Inc. All rights reserved.



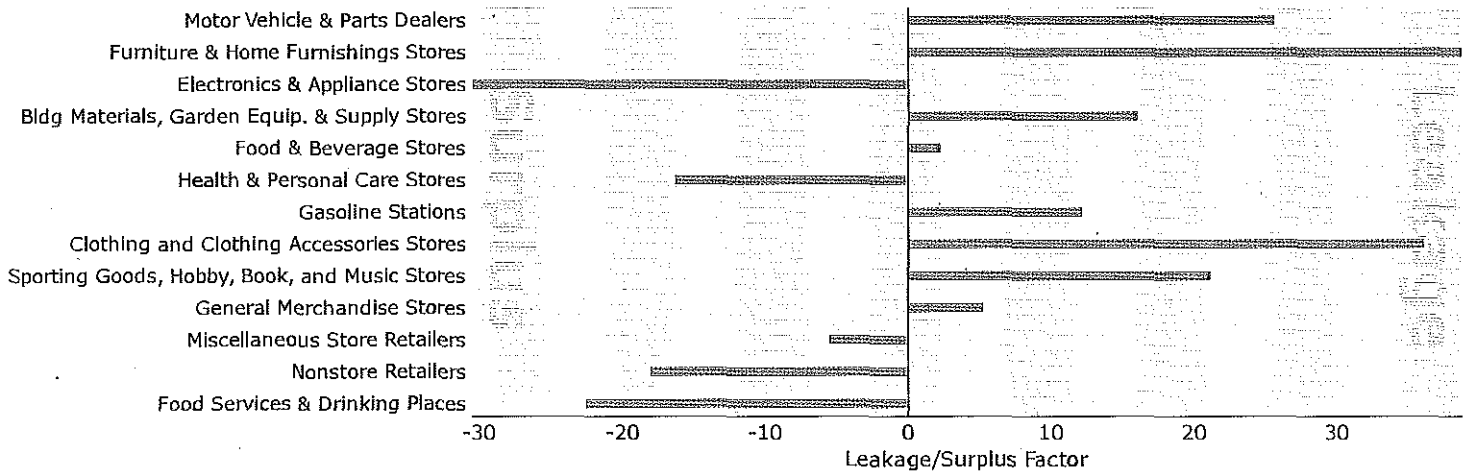


## Retail MarketPlace Profile

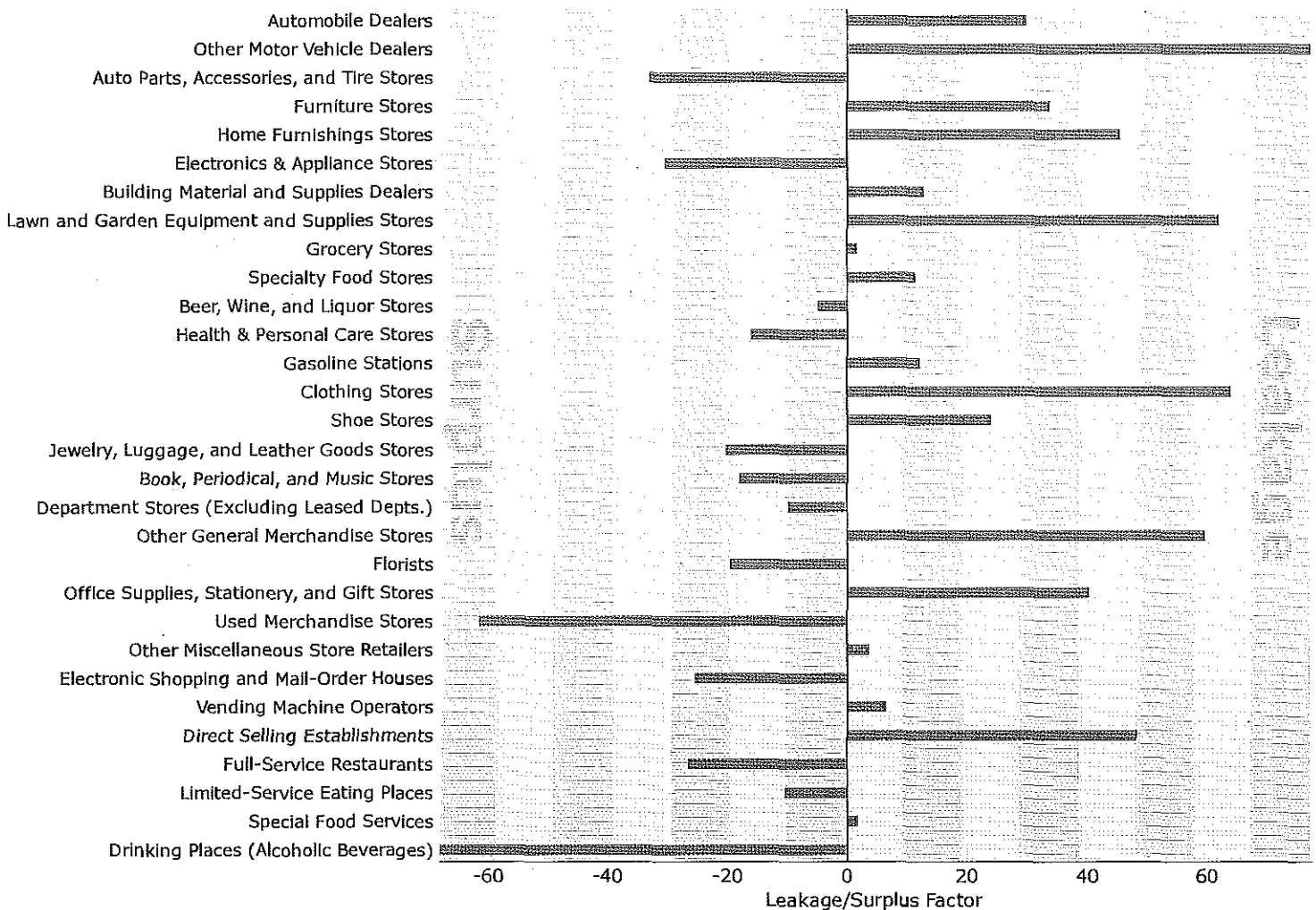
1375 E Santa Clara St, San Jose, California, 95116  
Ring: 2 mile radius

Prepared by E  
Latitude: 37.349  
Longitude: -121.863

### Leakage/Surplus Factor by Industry Subsector



### Leakage/Surplus Factor by Industry Group



**Appendix 3.**  
**Asking Apartment Rents (Newer Developments)**  
**City of San Jose**

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
<b>Santana Row Cluster</b>				
<b>Levare</b>				
1 BD / 1 BA	748	\$3,037	\$4.06	3003 Olin Avenue Year Built: 2003 108 Units
1 BD / 1 BA	907	\$3,467	\$3.82	
1 BD / 1 BA	906	\$3,306	\$3.65	
1 BD / 1 BA	1,021	\$4,097	\$4.01	
2 BD / 2 BA	1,274	\$3,700	\$2.90	
2 BD / 2 BA	1,194	\$3,864	\$3.24	
2 BD / 2 BA	1,460	\$5,139	\$3.52	
2 BD / 2 BA	1,236	\$3,495	\$2.83	
3 BD / 3 BA	1,682	\$5,384	\$3.20	
3 BD / 3 BA	1,719	\$5,424	\$3.16	
<b>Townhome</b>				
3 BD / 2.5 BA	2,291	\$6,665	\$2.91	
3 BD / 2.5 BA	2,399	\$7,339	\$3.06	
<b>Misora At Santana Row</b>				
Studio	507	\$2,159	\$4.26	388 Santana Row Year Built: 2013 212 Units
Studio	425	\$2,197	\$5.17	
Studio	566	\$2,790	\$4.93	
Studio	621	\$2,371	\$3.82	
Studio	558	\$2,888	\$5.17	
Studio	713	\$2,591	\$3.63	
Studio	591	\$3,188	\$5.39	
Studio	797	\$3,927	\$4.93	
1 BD / 1 BA	534	\$3,178	\$5.95	
1 BD / 1 BA	849	\$3,437	\$4.05	
1 BD / 1 BA	635	\$3,278	\$5.16	
1 BD / 1 BA	767	\$3,488	\$4.55	
1 BD / 1 BA	739	\$3,578	\$4.84	
1 BD / 1 BA	800	\$3,598	\$4.50	
1 BD / 1 BA	756	\$3,611	\$4.78	
1 BD / 1 BA	783	\$3,633	\$4.64	
1 BD / 1 BA	921	\$3,668	\$3.98	
1 BD / 1 BA	765	\$4,183	\$5.47	
1 BD / 1 BA	871	\$3,724	\$4.28	
1 BD / 1 BA	802	\$3,851	\$4.80	
1 BD / 1 BA	977	\$3,911	\$4.00	
1 BD / 1.5 BA	1,023	\$3,753	\$3.67	
1 BD / 1 BA	920	\$3,764	\$4.09	
1 BD / 1 BA	919	\$3,764	\$4.10	
1 BD / 1 BA	832	\$3,822	\$4.59	
1 BD / 1 BA	909	\$3,829	\$4.21	
1 BD / 1 BA	1,013	\$3,992	\$3.94	
1 BD / 1 BA	994	\$4,159	\$4.18	
2 BD / 2 BA	1,204	\$3,715	\$3.09	
2 BD / 2 BA	1,211	\$4,241	\$3.50	
2 BD / 2 BA	1,048	\$4,356	\$4.16	
2 BD / 2 BA	1,318	\$4,401	\$3.34	
2 BD / 2 BA	1,185	\$4,408	\$3.72	
2 BD / 2 BA	1,381	\$5,529	\$4.00	
2 BD / 2 BA	1,208	\$5,817	\$4.82	
2 BD / 2 BA	1,407	\$4,588	\$3.26	
2 BD / 2.5 BA	1,806	\$5,048	\$2.80	
2 BD / 2.5 BA	1,699	\$5,299	\$3.12	
2 BD / 2.5 BA	2,007	\$5,318	\$2.65	
2 BD / 2.5 BA	1,999	\$5,323	\$2.66	
2 BD / 2.5 BA	1,936	\$5,528	\$2.86	
2 BD / 2.5 BA	1,822	\$6,976	\$3.83	
2 BD / 2 BA	1,680	\$5,718	\$3.40	
2 BD / 2.5 BA	2,696	\$8,364	\$3.10	
2 BD / 2.5 BA	2,582	\$8,824	\$3.42	
2 BD / 2.5 BA	2,461	\$8,849	\$3.60	
2 BD / 2.5 BA	1,929	\$10,370	\$5.38	

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
2 BD / 2.5 BA	2,750	\$9,169	\$3.33	
3 BD / 2 BA	1,805	\$5,405	\$2.99	
3 BD / 2 BA	1,504	\$7,103	\$4.72	
3 BD / 2 BA	1,492	\$5,703	\$3.82	
3 BD / 3 BA	1,693	\$7,307	\$4.32	
<b>Santana Heights</b>				
1 BD / 1 BA	899	\$2,738	\$3.05	377 Santana Row Year Built: 2002 295 Units
1 BD / 1 BA	818	\$2,965	\$3.62	
1 BD / 1 BA	855	\$3,294	\$3.85	
1 BD / 1 BA	873	\$4,458	\$5.11	
1 BD / 1 BA	852	\$4,483	\$5.26	
1 BD / 1 BA	842	\$3,458	\$4.11	
2 BD / 2 BA	1,195	\$4,527	\$3.79	
1 BD / 1 BA	862	\$3,511	\$4.07	
2 BD / 2 BA	1,228	\$3,904	\$3.18	
1 BD / 1 BA	805	\$3,939	\$4.89	
2 BD / 2 BA	1,372	\$4,427	\$3.23	
1 BD / 1 BA	958	\$6,747	\$7.04	
3 BD / 2 BA	1,650	\$4,550	\$2.76	
2 BD / 2 BA	1,283	\$4,567	\$3.56	
3 BD / 2 BA	1,418	\$5,895	\$4.16	
2 BD / 2 BA	1,537	\$4,765	\$3.10	
2 BD / 2.5 BA	1,457	\$5,172	\$3.55	
2 BD / 2 BA	2,900	\$9,127	\$3.15	
2 BD / 2 BA	1,278	\$9,022	\$7.06	

Source: Apartment websites between 5/9/16 - 5/11/16

**Appendix 3.**  
**Asking Apartment Rents (Newer Developments)**  
**City of San Jose**

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
<b>North 1st Cluster</b>				
<b>121 Tasman</b>				
Studio	560	\$2,413	\$4.31	121 East Tasman Drive
1 BD / 1 BA	856	\$2,594	\$3.03	Year Built: 2013
1 BD / 1 BA	732	\$2,762	\$3.77	174 Units
1 BD / 1 BA	778	\$2,782	\$3.58	
1 BD / 1 BA	715	\$2,788	\$3.90	
1 BD / 1 BA	829	\$2,748	\$3.31	
1 BD / 1 BA	796	\$2,658	\$3.34	
2 BD / 2 BA	980	\$3,180	\$3.24	
2 BD / 2 BA	985	\$3,050	\$3.10	
2 BD / 2 BA	1,101	\$3,050	\$2.77	
2 BD / 2 BA	1,082	\$3,099	\$2.86	
2 BD / 2 BA	1,168	\$3,096	\$2.65	
2 BD / 2 BA	1,053	\$3,290	\$3.12	
2 BD / 2 BA	1,249	\$3,420	\$2.74	
2 BD / 2 BA	1,276	\$3,375	\$2.64	
2 BD / 2 BA	1,134	\$3,384	\$2.98	
<b>Aire Apartments</b>				
Studio	564	\$2,213	\$3.92	3401 Iron Point
1 BD / 1 BA	787	\$2,336	\$2.97	Year Built: 2013
1 BD / 1 BA	817	\$2,462	\$3.01	293 Units
1 BD / 1 BA	865	\$2,592	\$3.00	
1 BD / 1 BA	898	\$2,750	\$3.06	
1 BD / 1 BA	952	\$2,742	\$2.88	
1 BD / 1 BA	979	\$2,872	\$2.93	
1 BD / 1 BA	1,069	\$3,099	\$2.90	
1 BD / 1 BA	700	\$2,290	\$3.27	
2 BD / 2 BA	1,191	\$3,787	\$3.18	
2 BD / 2 BA	1,266	\$3,887	\$3.07	
2 BD / 2 BA	1,075	\$3,452	\$3.21	
2 BD / 2 BA	1,108	\$3,567	\$3.22	
<b>Crescent Village</b>				
Studio	556	\$2,890	\$5.20	310 Crescent Village Circle
Studio	574	\$2,975	\$5.18	Year Built: 2012
Studio	664	\$2,355	\$3.55	1407 Units
Studio	670	\$2,950	\$4.40	
Studio	679	\$2,745	\$4.04	
Studio	719	\$2,858	\$3.97	
Studio	723	\$2,420	\$3.35	
Studio	746	\$3,015	\$4.04	
Studio	772	\$2,858	\$3.70	
Studio	824	\$3,165	\$3.84	
Studio	936	\$3,485	\$3.72	
Studio	947	\$2,790	\$2.95	
Studio	962	\$2,828	\$2.94	
Studio	1,126	\$3,240	\$2.88	
Studio	1,158	\$3,040	\$2.63	
1 BD / 1 BA	697	\$3,020	\$4.33	
1 BD / 1 BA	704	\$2,460	\$3.49	
1 BD / 1 BA	712	\$3,665	\$5.15	
1 BD / 1 BA	744	\$3,043	\$4.09	
1 BD / 1 BA	750	\$2,625	\$3.50	
1 BD / 1 BA	758	\$3,153	\$4.16	
1 BD / 1 BA	762	\$3,200	\$4.20	
1 BD / 1 BA	768	\$2,980	\$3.88	
1 BD / 1 BA	773	\$3,075	\$3.98	
1 BD / 1 BA	774	\$3,023	\$3.91	
1 BD / 1 BA	810	\$3,105	\$3.83	
1 BD / 1 BA	811	\$3,093	\$3.81	
1 BD / 1 BA	823	\$3,065	\$3.72	
1 BD / 1 BA	855	\$2,655	\$3.11	
1 BD / 1 BA	878	\$2,755	\$3.14	

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
1 BD / 1 BA	900	\$2,850	\$3.17	
1 BD / 1 BA	917	\$3,398	\$3.71	
1 BD / 1 BA	922	\$2,948	\$3.20	
1 BD / 1 BA	925	\$3,408	\$3.68	
1 BD / 1 BA	928	\$3,553	\$3.83	
1 BD / 1 BA	934	\$3,025	\$3.24	
1 BD / 1 BA	947	\$3,463	\$3.66	
1 BD / 1 BA	966	\$3,050	\$3.16	
1 BD / 1 BA	983	\$3,433	\$3.49	
1 BD / 1 BA	996	\$3,685	\$3.70	
1 BD / 1 BA	1,045	\$3,553	\$3.40	
1 BD / 1 BA	1,070	\$3,638	\$3.40	
1 BD / 1 BA	1,072	\$3,648	\$3.40	
2 BD / 2 BA	1,011	\$3,563	\$3.52	
2 BD / 2 BA	1,020	\$3,040	\$2.98	
2 BD / 2 BA	1,027	\$3,650	\$3.55	
2 BD / 2 BA	1,038	\$3,850	\$3.71	
2 BD / 2 BA	1,054	\$4,053	\$3.84	
2 BD / 2 BA	1,092	\$3,260	\$2.99	
2 BD / 2 BA	1,093	\$4,125	\$3.77	
2 BD / 2 BA	1,105	\$3,850	\$3.48	
2 BD / 2 BA	1,108	\$3,728	\$3.36	
2 BD / 2 BA	1,137	\$3,520	\$3.10	
2 BD / 2 BA	1,147	\$4,185	\$3.65	
2 BD / 2 BA	1,156	\$4,483	\$3.88	
2 BD / 2 BA	1,163	\$3,953	\$3.40	
2 BD / 2 BA	1,221	\$4,018	\$3.29	
2 BD / 2 BA	1,230	\$4,070	\$3.31	
2 BD / 2 BA	1,245	\$4,398	\$3.53	
2 BD / 2 BA	1,273	\$4,263	\$3.35	
2 BD / 2 BA	1,282	\$4,070	\$3.17	
2 BD / 2 BA	1,290	\$4,508	\$3.49	
2 BD / 2 BA	1,300	\$4,393	\$3.38	
2 BD / 2 BA	1,396	\$4,495	\$3.22	
3 BD / 2 BA	1,334	\$4,040	\$3.03	
<b>Cypress At North Park (The)</b>				
1 BD / 1 BA	670	\$2,335	\$3.49	75 Rio Robles East
2 BD / 2 BA	981	\$2,770	\$2.82	Year Built: 2002
3 BD / 2 BA	1,305	\$3,500	\$2.68	477 Units
<b>Domain</b>				
1 BD / 1 BA	931	\$2,545	\$2.73	1 Vista Montana
1 BD / 1 BA	935	\$2,654	\$2.84	Year Built: 2013
1 BD / 1 BA	1,001	\$2,601	\$2.60	444 Units
2 BD / 2 BA	918	\$2,797	\$3.05	
2 BD / 2 BA	1,428	\$3,412	\$2.39	
<b>Epic</b>				
Studio	565	\$2,137	\$3.78	600 Epic Way
1 BD / 1 BA	733	\$2,435	\$3.32	Year Built: 2013
1 BD / 1 BA	734	\$2,638	\$3.59	569 Units
1 BD / 1 BA	739	\$2,391	\$3.23	
1 BD / 1 BA	778	\$2,460	\$3.16	
2 BD / 2 BA	1,044	\$3,307	\$3.17	
2 BD / 2 BA	1,050	\$3,130	\$2.98	
2 BD / 2 BA	1,064	\$3,299	\$3.10	
2 BD / 2 BA	1,100	\$3,143	\$2.86	
3 Bd / 2 BA	1,213	\$3,935	\$3.24	
<b>Laurels At North Park (The)</b>				
1 BD / 1 BA	665	\$2,425	\$3.65	155 Estancia Drive
2 BD / 2 BA	966	\$2,900	\$3.00	Year Built: 2005
				535 Units
<b>Oaks At North Park</b>				
Studio	533	\$2,275	\$4.27	39 Rio Robles East
1 BD / 1 BA	711	\$2,345	\$3.30	Year Built: 2002
2 BD / 2 BA	1,070	\$3,030	\$2.83	388 Units
3 BD / 2 BA	1,280	\$3,880	\$3.03	
<b>Pines At North Park</b>				

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
Studio	529	\$2,295	\$4.34	70 Descanso Drive
1 BD / 1 BA	620	\$2,400	\$3.87	Year Built: 2002
2 BD / 2 BA	981	\$2,900	\$2.96	478 Units
3 BD / 2 BA	1,315	\$3,490	\$2.65	
<b>Redwoods At North Park</b>				
1 BD / 1 BA	664	\$2,390	\$3.60	150 Alicante Drive
2 BD / 2 BA	966	\$2,800	\$2.90	Year Built: 2006
				439 Units
<b>River View</b>				
Studio	592	\$2,298	\$3.88	250 Brandon Street
Studio	565	\$2,275	\$4.03	Year Built: 2015
Studio	598	\$2,330	\$3.90	389 Units
Studio	588	\$2,335	\$3.97	
1 BD / 1 BA	757	\$2,580	\$3.41	
1 BD / 1 BA	774	\$2,600	\$3.36	
1 BD / 1 BA	685	\$2,600	\$3.80	
1 BD / 1 BA	680	\$2,605	\$3.83	
1 BD / 1 BA	837	\$2,615	\$3.12	
1 BD / 1 BA	707	\$3,430	\$4.85	
1 BD / 1 BA	796	\$2,630	\$3.30	
1 BD / 1 BA	675	\$2,648	\$3.92	
1 BD / 1 BA	759	\$2,655	\$3.50	
1 BD / 1 BA	862	\$2,780	\$3.23	
1 BD / 1 BA	781	\$3,613	\$4.63	
1 BD / 1 BA	914	\$3,668	\$4.01	
1 BD / 1 BA	747	\$2,965	\$3.97	
1 BD / 1 BA	890	\$3,753	\$4.22	
1 BD / 1 BA	823	\$3,023	\$3.67	
1 BD / 1 BA	1,062	\$3,023	\$2.85	
1 BD / 1 BA	912	\$3,993	\$4.38	
1 BD / 1 BA	922	\$3,090	\$3.35	
2 BD / 2 BA	1,167	\$3,120	\$2.67	
2 BD / 2 BA	1,050	\$3,150	\$3.00	
2 BD / 2 BA	1,048	\$3,233	\$3.08	
2 BD / 2 BA	1,040	\$3,253	\$3.13	
2 BD / 2 BA	1,150	\$3,238	\$2.82	
2 BD / 2 BA	1,156	\$3,205	\$2.77	
2 BD / 2 BA	1,148	\$3,245	\$2.83	
2 BD / 2 BA	1,171	\$3,290	\$2.81	
2 BD / 2 BA	1,067	\$3,335	\$3.13	
2 BD / 2 BA	1,170	\$3,325	\$2.84	
2 BD / 2 BA	1,175	\$4,443	\$3.78	
<b>Sycamores At North Park (The)</b>				
1 BD / 1 BA	770	\$2,370	\$3.08	3500 Palmilla
2 BD / 2 BA	1,010	\$3,065	\$3.03	Year Built: 2007

Source: Apartment websites between 5/9/16 - 5/11/16

Appendix 3.  
Asking Apartment Rents (Newer Developments)  
City of San Jose

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
<b>Japantown Cluster</b>				
<b>Esplanade (The)</b>				
Studio	765	\$2,562	\$3.35	350 East Taylor Street
1 BD / 1 BA	737	\$2,458	\$3.34	Year Built: 2001
2 BD / 2 BA	1,204	\$3,269	\$2.72	278 Units
2 BD / 2 BA	1,210	\$3,310	\$2.74	
2 BD / 2 BA	1,204	\$3,269	\$2.72	
2 BD / 2 BA	1,267	\$3,407	\$2.69	
<b>Marquis</b>				
Studio	530	\$2,205	\$4.16	817 North 10th Street
Studio	554	\$2,380	\$4.30	Year Built: 2015
1 BD / 1 BA	710	\$2,525	\$3.56	166 Units
1 BD / 1 BA	715	\$2,693	\$3.77	
1 BD / 1 BA	719	\$2,605	\$3.62	
1 BD / 1 BA	733	\$2,825	\$3.85	
2 BD / 2 BA	1,038	\$3,030	\$2.92	
2 BD / 2 BA	1,042	\$3,093	\$2.97	
2 BD / 2 BA	1,173	\$3,543	\$3.02	
<b>Mio Japantown</b>				
1 BD / 1 BA	726	\$2,396	\$3.30	688 North 7th Street
1 BD / 1 BA	759	\$2,503	\$3.30	Year Built: 2015
2 BD / 2 BA	1,040	\$3,215	\$3.09	103 Units

Source: Apartment websites between 5/9/16 - 5/11/16

**Appendix 3.**  
**Asking Apartment Rents (Newer Developments)**  
**City of San Jose**

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	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
<b>The Alameda &amp; Downtown Cluster</b>				
<b>Avalon At Cahill Park</b>				
1 BD / 1 BA	712	\$2,445	\$3.43	754 The Alameda
1 BD / 1 BA	793	\$2,410	\$3.04	Year Built: 2001
2 BD / 2 BA	1,185	\$3,115	\$2.63	218 Units
3 BD / 3 BA	1,297	\$4,160	\$3.21	
<b>Avalon Morrison Park</b>				
1 BD / 1.5 BA	908	\$2,755	\$3.03	899 Morrison Park Drive
1 BD / 1.5 BA	965	\$2,733	\$2.83	Year Built: 2013
1 BD / 1.5 BA	950	\$2,740	\$2.88	250 Units
2 BD / 2.5 BA	962	\$2,985	\$3.10	
2 BD / 2.5 BA	977	\$3,018	\$3.09	
3 BD / 2.5 BA	1,434	\$3,760	\$2.62	
<b>Avalon on the Alameda</b>				
1 BD / 1 BA	735	\$2,260	\$3.07	1300 The Alameda
2 BD / 2 BA	1,051	\$2,925	\$2.78	
2 BD / 2 BA	1,055	\$3,130	\$2.97	
2 BD / 2 BA	1,079	\$2,965	\$2.75	
2 BD / 2 BA	1,118	\$2,963	\$2.65	
3 BD / 3 BA	1,293	\$4,130	\$3.19	
3 BD / 3 BA	1,422	\$4,090	\$2.88	
<b>101 San Fernando</b>				
1 BD / 1 BA	680	\$2,405	\$3.54	101 East San Fernando Street
1 BD / 1 BA	793	\$2,423	\$3.06	Year Built: 2001
2 BD / 2 BA	1,077	\$3,464	\$3.22	323 Units
<b>33 South 3rd Street</b>				
1 BD / 1 BA	750	\$2,395	\$3.19	33 South 3rd Street
1 BD / 1 BA	835	\$2,550	\$3.05	Year Built: 2004
2 BD / 2 BA	1,226	\$3,295	\$2.69	89 Units
2 BD / 2 BA	1,440	\$3,495	\$2.43	
<b>Market Gateway</b>				
1 BD / 1 BA	717	\$2,138	\$2.98	535 South Market Street
1 BD / 1 BA	819	\$2,595	\$3.17	Year Built: 2000
1 BD / 1 BA	790	\$2,234	\$2.83	54 Units
2 BD / 2 BA	917	\$2,533	\$2.76	
<b>Museum Park Apartment Homes</b>				
1 BD / 1 BA	796	\$2,713	\$3.41	465 West San Carlos
1 BD / 1.5 BA	929	\$2,811	\$3.03	Year Built: 2002
				117 Units
<b>One South Market</b>				
1 BD / 1 BA	867	\$3,404	\$3.93	15 Market Street
1 BD / 1 BA	752	\$3,011	\$4.00	Year Built: 2015
1 BD / 1 BA	603	\$2,720	\$4.51	312 Units
1 BD / 1 BA	510	\$2,347	\$4.60	
2 BD / 1 BA	1,034	\$3,638	\$3.52	
2 BD / 1 BA	1,180	\$3,900	\$3.30	

Source: Apartment websites between 5/9/16 - 5/11/16



Appendix 3.  
Asking Apartment Rents (Newer Developments)  
City of San Jose

	<u>Sq. Ft.</u>	<u>Average Rent</u>	<u>\$/SF</u>	
<b>Other Areas</b>				
<b>Elements</b>				
1 BD / 1 BA	861	\$2,915	\$3.39	1201 Parkmoor Avenue
1 BD / 1 BA	904	\$3,030	\$3.35	Year Built: 2009
2 BD / 2 BA	1,173	\$3,525	\$3.01	243 Units
2 BD / 2 BA	1,341	\$3,953	\$2.95	
2 BD / 2 BA	1,242	\$3,545	\$2.85	
2 BD / 2 BA	1,594	\$4,350	\$2.73	
3 BD / 2 BA	1,453	\$4,565	\$3.14	
<b>Legacy Fountain Plaza</b>				
1 BD / 1 BA	748	\$3,258	\$4.35	190 Ryland Street
1 BD / 1 BA	859	\$3,263	\$3.80	Year Built: 2004
2 BD / 2 BA	1,131	\$3,693	\$3.26	367 Units
2 BD / 2 BA	1,122	\$3,821	\$3.41	
3 BD / 2 BA	1,430	\$4,438	\$3.10	
<b>Meridian At Midtown</b>				
Studio	599	\$2,410	\$4.02	1432 W San Carlos Street
1 BD / 1 BA	737	\$2,535	\$3.44	Year Built: 2014
1 BD / 1 BA	737	\$2,653	\$3.60	218 Units
2 BD / 2 BA	1,148	\$3,340	\$2.91	
2 BD / 2 BA	1,078	\$3,340	\$3.10	
<b>Mosaic Apartments</b>				
1 BD / 1 BA	861	\$3,163	\$3.67	500 Race Street
1 BD / 1 BA	904	\$3,188	\$3.53	Year Built: 2012
2 BD / 2 BA	1,173	\$3,933	\$3.35	386 Units
2 BD / 2 BA	1,341	\$4,373	\$3.26	
2 BD / 2 BA	1,242	\$3,878	\$3.12	
<b>Verdant (The)</b>				
1 BD / 1 BA	681	\$2,605	\$3.83	3700 Casa Verde
1 BD / 1 BA	756	\$2,745	\$3.63	Year Built: 2013
1 BD / 1 BA	827	\$2,593	\$3.13	498 Units
1 BD / 1 BA	695	\$2,670	\$3.84	
1 BD / 1 BA	764	\$2,603	\$3.41	
2 BD / 2 BA	981	\$3,195	\$3.26	
2 BD / 2 BA	1,025	\$3,293	\$3.21	
2 BD / 2 BA	1,049	\$3,065	\$2.92	
2 BD / 2 BA	1,049	\$2,995	\$2.86	
2 BD / 2 BA	1,132	\$3,375	\$2.98	
3 BD / 2 BA	1,295	\$4,010	\$3.10	
3 BD / 2 BA	1,370	\$4,210	\$3.07	

Source: Apartment websites between 5/9/16 - 5/11/16

Appendix 4.  
Non-Residential Space Rent Comps  
City of San Jose

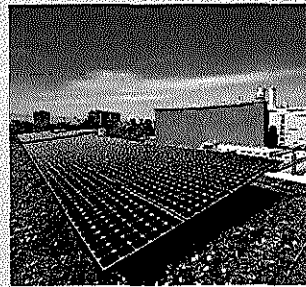
Address	Type	Space Avail	Rent/RSF	Space Notes
2910 Stevens Creek Blvd	Free Standing Bldg	3,929	\$84.00	Retail 1st Floor
74 South First Street	Street Retail	4,400	\$18.00	Ground floor retail
60 Pierce Ave	Street Retail	4,125	\$3.00	Ground floor retail
1509 Parkmoor Avenue	Neighborhood Center	5,000	\$30.00	Free standing building
196 Race St.	Strip Center	1,092	\$30.60	
1201 E. Julian Street	Strip Center	3,000	Negotiable	
31 Post Street	Street Retail	4,217	\$33.00	1st and 2nd floor
2230 Alum Rock Ave	Free Standing Bldg	1,473	\$33.00	
2323 McKee Rd	Neighborhood Center	144,446	Negotiable	Subdivide min 20,000 sf
402 S. Bascom Ave	Retail (Other)	850	\$26.82	Office/Retail Space
402 S. Bascom Ave	Retail (Other)	1,000	\$26.40	Office/Retail Space
57 N. Almaden Ave	Neighborhood Center	1,460	Negotiable	Ground Floor
57 N. Almaden Ave	Neighborhood Center	1,296	Negotiable	Ground Floor
57 N. Almaden Ave	Neighborhood Center	2,470	Negotiable	Ground Floor
57 N. Almaden Ave	Neighborhood Center	1,200	Negotiable	Ground Floor
57 N. Almaden Ave	Neighborhood Center	900	Negotiable	Ground Floor
1775 Story Road	Retail (Other)	1,572	\$39.00	
1 Market Street (N)	Retail (Other)	7,514	\$33.00	1st floor
1 Market Street (N)	Retail (Other)	6,830	\$33.00	2nd floor
1 Market Street (N)	Retail (Other)	5,414	\$33.00	Basement
1 Market Street (N)	Retail (Other)	224	\$33.00	Mezzanine
630 First Street (S)	Retail (Other)	7,625	\$24.00	
28 N. First St @ Santa Clara	Retail (Other)	1,917	\$21.00	Office/Retail Space
999 Story Road	Street Retail	1,472	Negotiable	
999 Story Road	Street Retail	1,000	Negotiable	
999 Story Road	Street Retail	1,000	Negotiable	
999 Story Road	Street Retail	1,060	Negotiable	
955 S 1st Street	Strip Center	967	\$39.00	
955 S 1st Street	Strip Center	1,230	\$2.75	
955 S 1st Street	Strip Center	1,357	\$2.47	
955 S 1st Street	Strip Center	710	\$2.50	
955 S 1st Street	Strip Center	872	\$30.00	
969 Story Road	Neighborhood Center	757	\$22.80	
969 Story Road	Neighborhood Center	957	\$22.80	
969 Story Road	Neighborhood Center	1,000	\$22.80	
200 S 1st St	Retail (Other)	2,200	\$36.00	Restaurant Space
2475 Forest Ave	Strip Center	2,400	\$28.29	
319 S. Monroe Street	Strip Center	1,500	\$33.00	
1445 The Alameda	Street Retail	2,240	\$30.00	Retail/Professional Use
1120 Bird Ave	Neighborhood Center	1,390	\$31.80	
158 S. King Rd	Strip Center	1,545	\$33.60	Retail/Professional Use
158 S. King Rd	Strip Center	2,215	\$33.00	
906 Vine Street	Strip Center	1,300	\$35.40	Corner Retail
1535 San Carlos (W)	Retail (Other)	3,613	\$23.40	Ground Floor
1180 S King Road	Community Center	1,094	\$40.20	
2230 Story Road	Retail (Other)	1,387	\$30.00	Street Frontage
17 E. Santa Clara St	Street Retail	2,668	\$20.16	Retail Storefront
1939 Alum Rock Avenue	Retail (Other)	1,250	\$30.60	
1120 Bird Ave	Neighborhood Center	1,390	\$31.80	Professional Use
695 N. First Street	Free Standing Bldg	4,300	\$26.40	
2301 Stevens Creek Blvd	Free Standing Bldg	3,860	\$24.00	
1040 Park Ave	Community Center	2,650	\$19.50	Ground Floor
1700 Park Avenue	Retail (Other)	1,039	Negotiable	Ground Floor
1700 Park Avenue	Retail (Other)	5,039	Negotiable	Ground Floor
743 S Winchester Blvd	Office Building	1,050	\$33.00	
25 N 14th Street	Medical Office	2,724	Negotiable	Ground Floor Retail
25 N 14th Street	Medical Office	2,554	\$19.80	Ground Floor Retail
25 N 14th Street	Medical Office	2,639	\$19.80	Ground Floor Retail
25 N 14th Street	Medical Office	977	\$19.80	Ground Floor Retail
100 W San Fernando St	Office Building	2,476	\$34.80	Office/Retail Space
2202 Stevens Creek Blvd	Retail (Other)	2,000	\$48.00	Retail/Restaurant
65 S. First Street	Neighborhood Center	1,023	\$30.00	
451 S 1st St	Office Building	4,930	\$27.60	Ground Floor
350 Bird Avenue (S)	Retail (Other)	1,179	\$27.00	
702 E Julian Street	Street Retail	1,100	\$21.00	
2 N 1st St	Office Building	2,869	\$24.00	Ground Floor retail
2311 Stevens Creek Blvd	Retail (Other)	3,884	\$35.40	
88 San Fernando, E.	Retail (Other)	2,558	\$36.00	
55 Market Street, South	Retail (Other)	2,418	\$33.00	
360 Market Street (S)	Retail (Other)	1,611	\$30.00	Ground Floor retail
360 Market Street (S)	Retail (Other)	2,676	\$30.00	Ground Floor retail
488 Almaden Blvd	Office Building	4,255	\$30.00	Ground Floor retail
377 Royal Ave	Neighborhood Center	7,500	Negotiable	Restaurant/Retail
15 First St	Retail (Other)	3,100	\$2.65	Restaurant
2202 Stevens Creek Blvd	Retail (Other)	2,000	\$48.00	Retail/Restaurant
950 S 1st Street	Free Standing Bldg	1,760	\$22.00	
730 Story Rd	Strip Center	750	\$33.00	Retail/Office
2301 Stevens Creek Blvd	Free Standing Bldg	3,860	\$24.00	
2102 McKee Rd	Restaurant	2,620	Negotiable	

Source: LoopNet (May 2016)



## Potential Modifications to the Affordable Housing Impact Fee (AHIF) Program

HCDC - October 13, 2016



## Agenda: Meeting Outline

- Background
- Update on Implementation
- The Analysis
- Housing's Draft Recommendations
- Next Steps
- Questions?

## AHIF: Background

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- Approved in November 2014
- \$17/sf on New Market-Rate Rentals
- Operative Date of June 30, 2016
- Several Exemptions:
  - DT High-Rise Projects (5 years)
  - Small Projects (2 or fewer units)
  - Affordable Housing Developments
  - Pipeline Projects

## AHIF: Update on Implementation

- Conducted 25 Outreach Meetings to Date
- Developed Program Regulations and Website Content
- 33 Exemption Applications in Process

## **AHIF: Update on Implementation**

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- Conducted 25 Outreach Meetings to Date
- Developed Program Regulations and Website Content
- 33 Exemption Applications in Process

<b>Exemption Provisions</b>	<b>Applications Received</b>	<b>Eligible/ Qualifying Projects</b>	<b>Exempted Apartments</b>	<b>Foregone AHIF Revenue</b>
<b>Pipeline Exemption</b>	31	29	6,486	\$95,300,584
<b>Downtown High-Rise Exemption</b>	NA	4	1,200	\$15,000,000
<b>TOTAL</b>	31	33	7,686	\$112,300,584

# **Housing Department Draft Recommendations**

**Small Apartment Projects, Mixed Use, Assisted Living**



# Analysis Caveats

- Prototypical Analysis – Cannot capture uniqueness of specific projects
- Near Term Time Horizon – Snapshot in time
- Potential Land Cost Adjustments
- Feasibility

## AHIF: Small Projects

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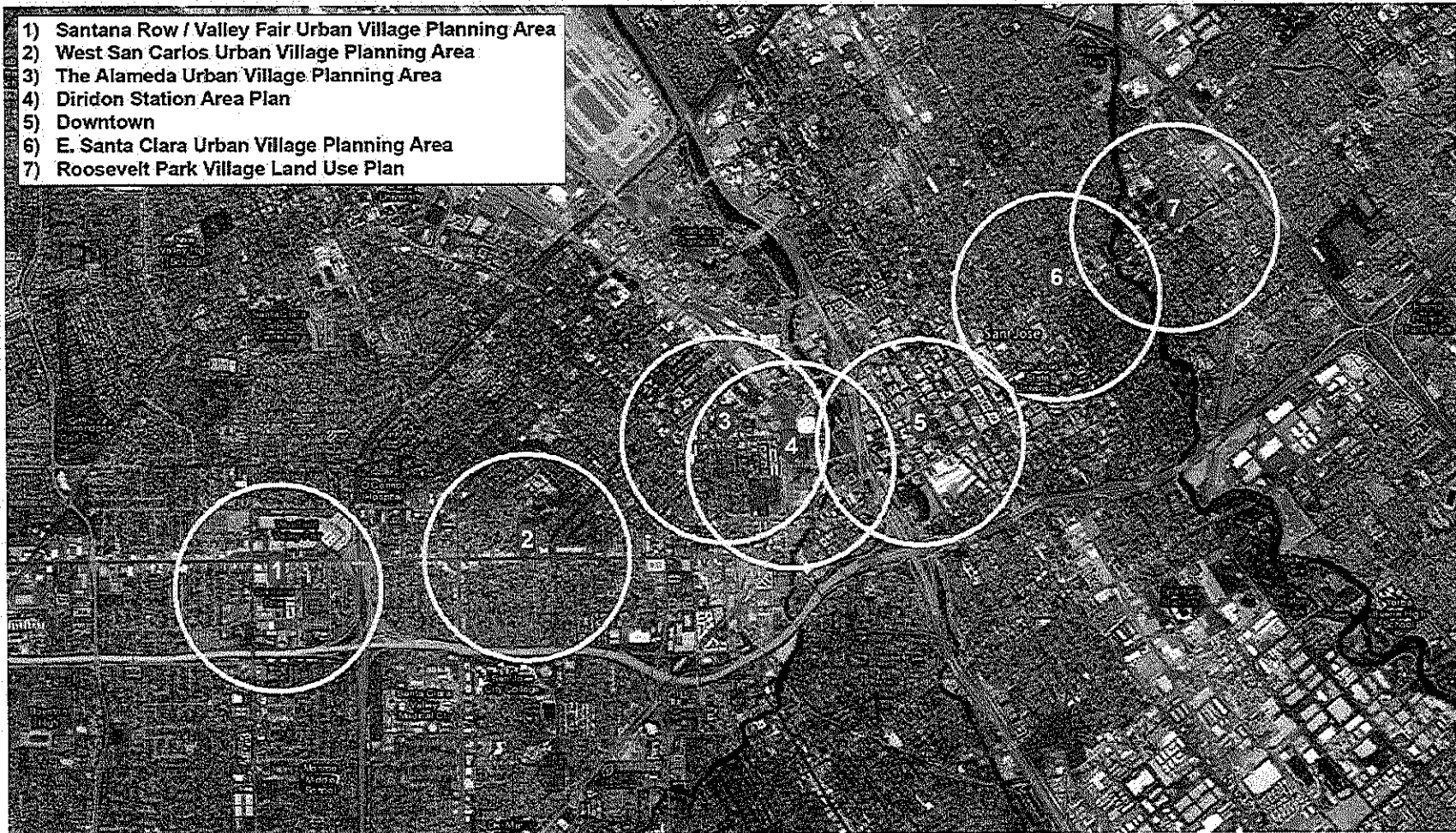
- Recommendation

- Increase Small Project Exemption from 3 to 19 Apartments

- Rationale

- Lack of Scale Presents Feasibility Challenges
- Very Few Rental Projects W/ Fewer Than 19 Units
- Consideration of:
  - Inclusionary Housing Ordinance, and
  - City Staff Resources

# Mixed Use Projects



# AHIF: Mixed-Use Projects

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## ■ Recommendation

- Reduce AHIF by \$4/sf for Projects:
  - Located in the Downtown or Diridon Station areas, or one of five designated Urban Villages (until a UV Plan is adopted)
  - In which the non-residential space equals or exceeds 8% of the project's total square footage

## ■ Rationale

- Mixed-Use Projects Have Feasibility Challenges
- Meet a Minimum Threshold of Non-Residential
- Uncertainty Until Urban Village Plans are Adopted

# AHIF: Assisted Living Facilities

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- Recommendation
  - No change to the AHIF
- Rationale
  - Impact of the AHIF would be nominal and not present a significant impact
- Note
  - AHIF applies only to units within Assisted Living Facilities that meet the definition of a dwelling unit in the AHIF Regulations

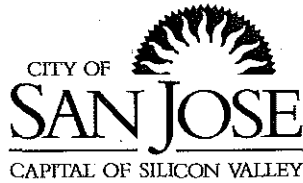
## AHIF: Next Steps

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- City Council Consideration
  - 11/8 @ 1:30 PM – Council Chambers

# Program Requirements: Questions

**Questions?**



# Memorandum

**TO:** HOUSING AND COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** ASSEMBLY USE ZONING  
ORDINANCE: SHELTER AND  
SAFE PARKING

**DATE:** October 6, 2016

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Approved

Date

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At the October 13, 2016 Housing and Community Development Commission meeting, Housing and PBCE Department staff will provide a brief presentation on proposed amendments to the City's Zoning Code to establish regulations for 1) homeless shelters at places of religious and non-religious assembly, and 2) overnight parking by homeless individuals and families in the parking lot of religious and non-religious assembly. The purpose of this presentation is to obtain input from the Commissioners on the proposed amendments.

/s/  
Jacky Morales-Ferrand,  
Housing Director

For questions, please contact Ray Bramson, Division Manager, at 408-535-8234.



Housing & Community Development Advisory Commission  
Draft Workplan for FY 2016-17

HCDC Meeting: 10/13/16  
Agenda Item: (i)

#	Objective for FY 2016-17	Actions	Subject	Target Meeting Date	Status
1	Consolidated Annual Performance and Evaluation Report (CAPER)	Public Hearing of the FY 2015-16 Consolidated Annual Performance and Evaluation (CAPER) – and Possible Recommendation to City Council to Approve Report	Housing and Community Development	September 2016	Approved by City Council 9/13/16
2	Interim Apartment Rent Ordinance Regulations	Provide recommendations to Council on Interim Apartment Rent Ordinance regulations to implement the Interim Ordinance	Apartment Rent Ordinance (ARO)	September 2016	Approved by City Council 9/27/16
3	Update on Affordable Housing Impact Fee	Provide recommendations to staff on initial recommendations regarding the update on the affordable housing impact fee program	Housing and Community Development	October 2016	
4	Adopt FY 2016-17 Workplan for the Commission	Review, discuss, and adopt a FY 2016-17 Workplan based on work completed at Annual Retreat for approval by the Rules and Open Gov't Committee	Administrative	October 2016	
5	Safe Parking & Assembly Use Shelter Input	Provide comments on the Proposed Safe Parking and Assembly Use Shelter Ordinances	Homelessness	October 2016	
6	Potential Teacher Housing per Mayors Direction	Provide possible recommendations on a program for teacher housing	Housing and Community Development	November 2016	
7	Density Bonus & Secondary Units	Provide comments on proposed changes to the Zoning Code relating to density bonus and secondary dwelling units	Housing and Community Development	Spring, 2016	
8	Analysis of Impediments to Fair Housing	Public Hearing? I think there is a specific process here Provide input to staff and potential recommendation to City Council regarding Analysis of Impediments to Fair Housing	Housing and Community Development	November 2016	
9	FY 2017-18 Annual Action Plan Funding Strategies	Public Hearing? I think there is a specific process here Review and possible recommendation on funding strategies for 2017-18 Annual Action Plan (Senior Services and CDI Projects)	Housing and Community Development	November 2016	

Housing & Community Development Advisory Commission  
Draft Workplan for FY 2016-17

HCDC Meeting: 10/13/16  
Agenda Item: (i)

#	Objective for FY 2016-17	Actions	Subject	Target Meeting Date	Status
10	Mobilehome Park Preservation	Provide recommendation to staff and City Council regarding Mobilehome Park Preservation, , MHP Conversion Policy changes and MHP closure ordinance	Mobilehome Ordinance (MO)	November 2016/ January 2017	
11	General Plan 2040 Implementation	Provide comments on general plan implementation, including text amendments, urban villages, North San Jose, and mobilehome parks	Housing and Community Development	January 2017	
12	Fully Modified ARO Draft Ordinance & Regulations	Provide consider approval of the fully modified draft Apartment Rent Ordinance and Regulations and provide recommendations to Council	Apartment Rent Ordinance	January 2017	
13	Ellis Act Ordinance	Provide comments of the Ellis Act Ordinance in order to provide relocation assistance for ARO tenants when an ARO building is withdrawn from the rental market.	Apartment Rent Ordinance	February 2017	
13.1	Demolition and Conversion of ARO units	Provide comments on proposed new provisions of the Zoning Code pertaining to the demolition or conversion of ARO apartments	Apartment Rent Ordinance	February 2017	
14	Mobilehome Park Opt-in/Stay in Business Concept	Provide recommendations to staff and Council on potential Opt-in/stay in business concept	Mobilehome Ordinance	February 2017	
15	Draft ARPO	Provide comments to staff and recommendation to City Council regarding Anti retaliation & protection Ordinance (ARPO)	Apartment Rent Ordinance	February 2017	
16	Annual Report on Homelessness	Provide updates and input on homeless policy issues	Homelessness	February 2017	
17	Public Hearing and Recommendation on FY 2017-18 Annual Action Plan	Public Hearing and possible Recommendation on 2016-17 Annual Action Plan and [Housing Trust Fund – this is a separate item]	Housing and Community Development	February/March 2017	
18	Rental Rights and Referral Program Budget (Fee)	Review, discuss, and provide recommendation to the Housing Department on the RRR Program fee rates.	Apartment & Mobilehome	March 2017	

Housing & Community Development Advisory Commission  
Draft Workplan for FY 2016-17

HCDC Meeting: 10/13/16  
Agenda Item: (i)

#	Objective for FY 2016-17	Actions	Subject	Target Meeting Date	Status
	Recommendations	(Mobilehomes and Apartments)	Rent Ordinances		
19	Housing Trust Fund Budget	Provide input on use of expenditures from the Housing Trust Fund for homeless [ and other?] purposes	Homelessness	April 2017	
20	Commission Chair/Vice Chair Nominations	Nominate Chair and Vice Chair [they need new bylaws consistent with Policy 0-4]	Administrative	May 2017	
21	Commission Chair/Vice Chair Nominations	Elect Chair and Vice Chair	Administrative	May 2017	
22	Homeless Census and Survey Results	Discuss Survey Results	Homelessness	June 2017	
23	Proposed State/Federal Local Legislation and ballot initiatives	Proposed Federal/State/Local Legislation. Discussion and possible recommendations to Council on proposed legislation and ballot measures pertaining to subjects under to the purview of the Commission [confirm process for this in 0-4]	Housing and Community Development	As required	
24	Input on City Council Priorities for Priority Setting Discussion	Provide recommendations to City Council regarding proposed Council priorities under Commission purview prior to Council's annual priority setting discussion	Housing and Community Development	January, 2017	
25	Periodic Housing Reports	Discuss various reports on housing data provided by staff for the purposes of informing Commissioners on issues within Commission scope.	ARO, MO, Housing and Community Development	As required	
26	Informational Items	Informational briefings from subject matter experts, non-profit representatives, and other agencies, as appropriate	ARO, MO, Housing and Community Development	As required	

**CSJ Supported Bills**

**AB 2176:** Emergency Bridge Housing Communities (Campos) *Sponsor* – **SIGNED**

Allows for the creation of emergency bridge housing communities to be developed during a shelter crisis

**AB 2502:** Palmer Fix (Mullin) – Died in Asm. Local Government Committee.

Allows inclusionary rental housing

**AB 2817:** Low Income Housing Tax Credits (Chiu) – Died in Senate Appropriations.

\$300M increase to LIHTC

**SB 873:** Sale of Tax Credits (Beall) – Adopted with the 16-17 Budget

Increases the value of a tax credit to no less than 80% of the sell price. Changes project owner/investor relationship

**SB 879:** Affordable Housing Bond Act of 2016 (Beall) – Died in Assembly.

\$3B Statewide AH Bond

**Relevant Bills - In Process**

**AB 551 (Nazarian):** Bed Bugs – **SIGNED**

Sets legal standards and responsibilities for tenants and property owners for the remediation of bed bugs.

**AB 1934 (Santiago):** Development Bonuses – **SIGNED**

Allows commercial developments that are partnered or joined with an affordable housing development to also receive development bonuses, which are negotiated between developer and city/county, including development variances.

**AB 2031 (Bonta):** Boomerang Funds – **SIGNED**

Allows local government to create an affordable housing benefit district for the purpose of receiving property tax revenue that it would otherwise receive through the dissolution of redevelopment agencies. Bill outlines the operational requirements of the benefit district, governing board, and reporting requirements.

**AB 2208 (Santiago):** Housing Elements: Land suitable for residential development – **SIGNED**

Revise the definition of land suitable for residential development to include the airspace above sites owned or leased by a city, county, or city and county. The bill would require the department to provide guidance to local governments to properly survey, detail, and account for sites listed within the local governments inventory of land suitable for residential development.

**AB 2299 (Bloom):** 2<sup>nd</sup> Units – **SIGNED**

Creates a requirement that if a local agency does not have an ordinance governing second units, the agency must grant a variance or special use permit for the construction of a second unit, as long as it complies with specified requirements.

**AB 2406 (Thurmond):** Junior Accessory Dwelling Units - **SIGNED**

Allows a local agency to create an ordinance that allows for the creation of "Jr. Accessory Dwelling Units" in SF residential zones. The Ordinance, if adopted, must include development standards, deed restrictions, occupancy requirements, and exempt water and sewer connection fees or additional parking requirements.

**AB 2442 (Holden):** Density Bonuses – **SIGNED**

Expands the eligible development projects to developments with at least 10% of units available for transitional foster youth, disabled veterans, or homeless persons, as defined. Units subject to 55-year dead restriction. Density bonus set at 20% of the number of units.

**State of California Proposed Housing Legislation – As of: October 6, 2016**

Deadline for Governor's Signature: September 30

**AB 2492 (Alejo): Community Revitalization - SIGNED**

Clean-up language to AB 2 (2015). Allows a community revitalization authorities to be formed using a combination of census tracts and census block groups that fall below 80% of the AMI for the state, county or city. Allows CRAs to transfer funds from local revenue/assessment revenue measures.

**AB 2501 (Bloom/Low): Density bonus clean-up language - SIGNED**

Requires local government to adopt procedures and timelines for processing a density bonus application. Allows the developer to waive an increase in density for an increase in other variances or concessions, so long as the concessions or variances reduce the cost of development of affordable housing.

**AB 2556 (Nazarian): Density Bonus - SIGNED**

Specifically addresses the replacement of affordable or rent controlled units. Bill revises the definition of "replacement". Allows local governments to require the replacement of rent controlled units to be income-restricted instead, or be replaced as rent controlled.

**AB 2818 (Chiu): Community Land Trusts – SIGNED**

Require the county assessor to consider the affordability restrictions included in a 99-year renewable ground lease between a CLT and qualified owner, when assessing real property.

**SB 866 (Roth): Veterans housing - SIGNED**

Expands VHHP awards to female-only developments serving female veterans and their dependent children in cases where the woman is a veteran who has suffered sexual abuse, trauma, intimidation or harassment while serving in the military, or is seeking housing services because she has been the victim of sexual or domestic violence.

**SB 1069 (Wieckowski): 2<sup>nd</sup> Units - SIGNED**

Requires local agencies to develop an accessory dwelling unit ordinance that allows ADUs in SF and MF residential zones and prohibits the imposition of parking standards under certain circumstances. Sets development standards where a local ordinance does not exist and requires ministerial approval of an ADU application.

**SB 1380 (Mitchell): Homeless Coordinating & Financing Council - SIGNED**

Requires local agencies that funds, implements or administers a state housing or homelessness program to adopt Housing First guidelines. Established the Homeless Coordinating and Financing Council.

**SB 1413 (Leno): School districts: employee housing - SIGNED**

This bill would authorize a school district to establish and implement programs, as provided, that address the housing needs of teachers and school district employees who face challenges in securing affordable housing. Bill provides to the acquisition, construction, rehabilitation, and preservation of affordable rental housing for teachers and school district employees. Bill provides that school districts that create affordable housing programs for district employees are still eligible for State and federal tax credits.

**State of California Proposed Housing Legislation** – As of: October 6, 2016

Deadline for Governor's Signature: September 30

<b>Relevant Bills - Died</b>
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**AB 2522 (Bloom):** Attached housing developments

Died in Asm. Housing & Community Development Committee

**AB 2734 (Atkins):** Local Control Affordable Housing Act

Died in Asm. Appropriations Committee

**AB 2821 (Chiu):** Housing for a Healthy California - ***VETOED***

Vetoed because of a lack of ongoing funding. Directed to the budget process.

**AB 2876 (Bloom):** Veterans Housing Assistance

Died in Asm. Housing & Community Development Committee

**SB 876 (Liu):** Homelessness

Died in Senate Committee on Housing and Transportation

**SB 1053 (Leno):** Source of Income Discrimination

Died in Senate Appropriations Committee

### Approved Budget – At a Glance

Housing: All Funds	Amount (in Millions)
<b>Dept. of Housing &amp; Community Development</b>	
MHSA Programs	\$267
Federal Funds	\$112
Housing for Veterans Funds	\$75
Regional Planning, Housing, & Infill Incentive	\$22
Office of Migrant Services	\$6
Misc.	\$94
<b>CalHFA</b>	
Multifamily Conduit Lending	\$300
Multifamily Lending	\$190
Single Family 1 <sup>st</sup> Mortgage Lending	\$1,012
Mortgage Credit Certificates	\$130
Single Family Down Payment Assistance	\$48
Special Needs Housing Program	\$55
<b>Strategic Growth Council</b>	
Affordable Housing & Sustainable Communities	\$400
<b>TCAC</b>	
LIHTC – Federal	\$225
LIHTC – State	\$61
Farmworker Housing Assist Tax Credits	\$5
<b>Department of Veterans Affairs</b>	
CalVet Farm & Home Loan Program	\$66
<b>Department of Social Services</b>	
CalWORKS Housing Support Program	\$35
CalWORKS Homeless Assistance Program	\$30
<b>Department of Finance</b>	
Community-based Transitional Housing Program - New	\$25
<b>Department of Public Health</b>	
HOPWA – Federal	\$3
<b>Office of Emergency Services</b>	
Homeless Youth & Exploitation Program	\$2
<b>Department of Corrections &amp; Rehabilitation</b>	
Integrated Services for Mentally-Ill Parolees	\$2
Specialized Treatment Programs	CDCR General Fund
<b>Total FY16-17</b>	<b>\$3,165,000,000</b>

#### Additional funding and policy changes through budget trailer legislation:

- ~~\$400M – tied to the approval of by right housing adoption by the Legislature. No information on implementation or allocation structure~~
- Approves SB 873 and changes the structure of the sale of tax credits. Our analysis can be found [here](#).
- \$0 in FY16-17 – Created the California Emergency Solutions Grants Program under HCD for future appropriations by the Legislature
- \$2B “No Place Like Home” mental health homeless housing bond.